

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2091/13-14  
(These minutes have been seen  
by the Administration)

Ref : CB2/BC/7/13

**Bills Committee on Property Management Services Bill**

**Minutes of the 1<sup>st</sup> meeting**  
**held on Wednesday, 11 June 2014, at 8:45 am**  
**in Conference Room 2 of the Legislative Council Complex**

- Members present** : Hon Tony TSE Wai-chuen (Chairman)  
Hon WU Chi-wai, MH (Deputy Chairman)  
Hon James TO Kun-sun  
Hon WONG Kwok-hing, BBS, MH  
Hon Starry LEE Wai-king, JP  
Hon CHAN Kin-por, BBS, JP  
Hon CHEUNG Kwok-che  
Hon IP Kwok-him, GBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon Claudia MO  
Hon Steven HO Chun-yin  
Hon Frankie YICK Chi-ming  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon Alice MAK Mei-kuen, JP  
Hon KWOK Wai-keung  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
- Members absent** : Hon Abraham SHEK Lai-him, GBS, JP  
Hon Cyd HO Sau-lan  
Hon WONG Yuk-man
- Public Officers attending** : Item II  
Mrs Pamela TAN KAM Mi-wah, JP  
Director of Home Affairs  
  
Mr Jack CHAN Jick-chi, JP  
Deputy Director of Home Affairs (2)

Miss Linda LEUNG Ka-ying  
Assistant Director of Home Affairs (5)

Mr Michael LAM Siu-chung  
Senior Assistant Law Draftsman  
Department of Justice

**Clerk in attendance** : Ms Alice LEUNG  
Chief Council Secretary (2) 2

**Staff in attendance** : Mr Bonny LOO  
Assistant Legal Adviser 3

Miss Josephine SO  
Senior Council Secretary (2) 6

Miss Emma CHEUNG  
Legislative Assistant (2) 2

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Action

**I. Election of Chairman and Deputy Chairman**

Election of Chairman

1 Mr James TO, the member who had the highest precedence in Council among members of the Bills Committee present, presided over the election of the Chairman. He invited nominations for the chairmanship of the Bills Committee.

2. Mr Tony TSE was nominated by Mr IP Kwok-him and the nomination was seconded by Mr CHAN Kin-por. Mr Tony TSE accepted the nomination. As there was no other nomination, Mr James TO declared Mr Tony TSE elected as the Chairman of the Bills Committee. Mr TSE then took the chair.

Election of Deputy Chairman

3. The Chairman called for nominations for the deputy chairmanship of the Bills Committee. Mr WU Chi-wai was nominated by Mr James TO and the nomination was seconded by Mr CHAN Kin-por. Mr WU Chi-wai accepted the nomination. There being no other nomination, Mr WU Chi-wai was elected the Deputy Chairman of the Bills Committee.

Action

**II. Meeting with the Administration**

(HAD HQ CR/20/3/5(C), LC Paper No. CB(3)583/13-14, LS53/13-14 and CB(2)1761/13-14(02) to (05))

4. The Bills Committee deliberated (index of proceedings attached at **Annex**).

Follow-up actions arising from the discussion

5. Members, including the Deputy Chairman, Mr WONG Kwok-hing, and Mr KWOK Wai-keung, expressed various concerns about property management practitioners ("PMPs"), including the manpower supply and demand of PMPs, the proposed licensing criteria relating to the academic and professional qualifications of a PMP (Tier 1) and a PMP (Tier 2) and the provision of vocational/professional training to prepare PMPs for the full implementation of the licensing system under the Property Management Services Bill ("the Bill"). The Bills Committee requested the Administration to provide an estimation on -

Admin

- (a) the total number as well as academic and professional qualifications of existing in-service PMPs who would be subject to the proposed licensing system;
- (b) the respective numbers of these in-service PMPs who would meet the licensing criteria of formal licences and apply for the proposed PMP (Tier 1) and PMP (Tier 2) licences directly during the transitional period; and
- (c) the future market demand for the two tiers of licensed PMPs after the introduction of the new regulatory regime.

**III. Any other business**

Date of next meeting

6. The Bills Committee agreed that the next meeting be held on Wednesday, 9 July 2014, at 8:30 am in Conference Room 3 of the Legislative Council Complex.

*(Post-meeting note: To avoid clashing with the special meeting of the Finance Committee on 9 July 2014, the Bills Committee meeting scheduled for 9 July 2014 had subsequently been cancelled.)*

Action

Invitation for public views

7. The Bills Committee also agreed to receive public views on the Bill in the morning of Wednesday, 23 July 2014. Members also agreed that the Bills Committee would post a notice on the Legislative Council website and issue invitation letters to the 18 District Councils.

8. There being no other business, the meeting ended at 10:42 am.

Council Business Division 2  
Legislative Council Secretariat  
21 July 2014

**Proceedings of the meeting of the  
Bills Committee on Property Management Services Bill  
on Wednesday, 11 June 2014, at 8:45 am  
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action Required
<i>Agenda Item I - Election of Chairman and Deputy Chairman</i>			
000109 - 000208	Mr James TO Mr IP Kwok-him Mr CHAN Kin-por Mr Tony TSE	Election of Chairman	
000209 - 000404	Chairman Mr James TO Mr CHAN Kin-por Mr WU Chi-wai	Election of Deputy Chairman	
<i>Agenda Item II - Meeting with the Administration</i>			
000405 - 001557	Chairman Admin	Briefing by the Administration on the Property Management Services Bill ("the Bill") [Legislative Council Brief - File Ref.: HAD HQ CR/20/3/5(C)]	
001558 - 002328	Chairman Mr WONG Kwok-hing Admin	<p>Mr WONG Kwok-hing's expression of support for the Administration's introduction of a regulatory regime to enhance the service quality and professionalism of the property management industry. Considering that the proposed Property Management Services Authority ("PMSA") would assume the function of a licensing body and handle complaints against licensed property management companies ("PMCs") and property management practitioners ("PMPs"), it must be ensured that the appointment of the chairperson and members of PMSA would not give rise to concerns about possible conflict of interest. His concern about the provision of vocational/professional training to prepare existing in-service PMPs for the full implementation of the licensing system.</p> <p>The Administration's advice that PMSA would consist of the Chairperson, the Vice-chairperson and not more than 18 ordinary members from the following three categories of individuals -</p> <p>(a) individuals who were engaged in property management services, taking up about one-fourth of the ordinary members of PMSA;</p> <p>(b) individuals who had experience in the relevant fields related to property management, general</p>	

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		<p>administration or consumer affairs, taking up also about one-fourth of the ordinary members of PMSA; and</p> <p>(c) other individuals who appeared to the Chief Executive to be suitable for appointment as members, taking up at least 50% of the ordinary members.</p> <p>The Administration's further advice that -</p> <p>(a) after the passage of the Bill, the Administration would introduce subsidiary legislation which covered the detailed licensing criteria for PMCs and PMPs, the information and documents required for licence applications, the level of licence fees and levy as well as the exemption of any class of persons or instruments from the payment of levy;</p> <p>(b) the Administration proposed to allow a three-year transitional period after the enactment of the principal ordinance and subsidiary legislation. Unlicensed PMCs and PMPs would not be allowed to practise in the industry after the expiry of the transitional period; and</p> <p>(c) in order to facilitate experienced PMPs with lower level of formal qualifications to adapt to the new licensing system, experienced PMPs meeting certain basic requirements would be granted provisional licences during the transitional period. After they had obtained the provisional licences, they would be allowed three years to complete continuing professional development courses so that they could be granted formal licences upon the expiry of their provisional licences.</p>	
002329 - 002820	Chairman Mr Christopher CHUNG Admin	<p>In response to Mr Christopher CHUNG's enquiry about the licensing requirements for PMCs and PMPs, the Administration advised that -</p> <p>(a) while the detailed licensing criteria would be set out in the subsidiary legislation, a PMC would have to fulfil all the licensing criteria such as the minimum number of directors and employees holding PMP licences, the suitability of the company in holding a PMC</p>	

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		<p>licence (e.g. whether the company was in liquidation or subject to a winding-up order, whether there was past conviction record on relevant offences, the suitability of the directors), etc.;</p> <p>(b) the Administration's initial thinking was that a PMC should have at least one director who was a licensed PMP and at least three employees holding PMP licences, among whom, one (either working full-time or part-time) should hold a PMP (Tier 1) licence;</p> <p>(c) in respect of PMPs, the licensing criteria would be set in terms of academic qualifications, professional qualifications, years of working experience and the suitability of the person in holding a PMP licence (e.g. whether the individual was a mentally disordered person, whether there was past conviction record on relevant offences, etc.); and</p> <p>(d) the qualification requirements for licensed PMPs (Tier 1), who might describe themselves as "registered professional property managers", would be higher than that for licensed PMPs (Tier 2), who might describe themselves as "licensed property management officers". PMSA would liaise with industry organizations and local tertiary institutes to ensure that sufficient courses would be provided to PMPs to meet the licensing requirements.</p>	
002821 - 003303	Chairman Mr Frankie YICK Admin	<p>In response to Mr Frankie YICK's enquiries, the Administration advised that -</p> <p>(a) during the public consultation, the majority view was supportive of the introduction of a licensing regime for the industry as it would help raise the professional status of the industry. There were however concerns about the proposed introduction of a single-tier licensing regime for PMCs as it might work to the disadvantage of small and medium-sized PMCs and affect their survival;</p> <p>(b) to ensure the provision of a level playing field for PMCs of different sizes and to avoid</p>	

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		<p>creating labelling effects, the Administration considered a single-tier licensing regime appropriate. The Administration further advised that the licensing requirements for PMCs would not be very stringent, so as to ensure that small and medium-sized PMCs would not be driven out of the market resulting in the monopolization of the market by large PMCs; and</p> <p>(c) although the actual level of licence fees would be worked out at a later stage of the legislative exercise, it would not be high and hence should not be a cause for concern for PMCs. The possibility for PMCs to transfer the cost to property owners should be low.</p>	
003304 - 003910	Chairman Deputy Chairman Admin	<p>The Deputy Chairman's expression of concern about the manpower supply and demand for the two tiers of licensed PMPs after the implementation of the proposed licensing regime. He requested the Administration to provide an estimation in this respect. He was also concerned about the powers and responsibilities of PMCs in fulfilling the statutory requirements in relation to the management of a building under the Building Management Ordinance (Cap. 344) ("BMO") after the enactment of the Bill.</p> <p>The Administration's response that -</p> <p>(a) PMCs and PMPs played an important role in assisting property owners in the proper management of their buildings. BMO provided a legal framework for the formation of Owners' Corporations ("OCs") to facilitate effective building management and an OC might decide whether to engage a PMC to assist in carrying out its duties or exercising powers conferred under BMO. The Bill, if enacted as an ordinance, would have a close interplay with BMO; and</p> <p>(b) under the proposed regulatory regime, all PMCs and PMPs would be required to comply with the requirements stipulated in the legislation and the code of conduct to be issued by PMSA. PMSA would be empowered to conduct investigation upon receipt of complaints against PMCs/PMPs in the performance of their functions under the Bill.</p>	<b>Admin to provide the information (para. 5(c) of the minutes refers)</b>

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		<p>In response to the Deputy Chairman's enquiry about the duties and responsibilities of the staff of PMSA, the Administration advised that the duties of the 60 staff members would include, but were not limited to, processing licence applications, handling of complaints and professional development.</p>	
003911 - 004318	Chairman Ms Claudia MO Admin	<p>Ms Claudia MO's expression of concern as to whether PMSA would be financially sustainable in the long run, having regard to the fact that it would be a self-financing statutory body supported by income generated from licence fees and a very small amount of fixed levy (around \$200-\$350) to be imposed on each conveyance on sale.</p> <p>The Administration responded that according to its estimate, the recurrent expenditure of PMSA would be around \$30 million a year, of which one-third would be recovered by licence fees and the remaining two-thirds by income generated from the fixed levy to be charged on each conveyance on sale of immovable property.</p> <p>In response to Ms Claudia MO's enquiry as to whether there could be possible improvements to BMO, the Administration advised that -</p> <p>(a) BMO provided a legal framework for owners to form OCs and to manage their buildings properly in accordance with the requirements of the legislation;</p> <p>(b) BMO was last amended in 2007. In order to keep pace with changing circumstances and to address public concerns, the Administration appointed the Review Committee on the Building Management Ordinance ("the Review Committee") in 2011 to identify common building management problems, deliberate how they might be resolved or alleviated through amending BMO, and make recommendations on how to take forward proposals to enhance the operation of OCs and to protect the interests of individual owners;</p> <p>(c) the Review Committee had set out its preliminary findings in its Interim Report. On those building management issues where disputes arose due to difference in interpretation of the requirements under BMO,</p>	

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		<p>the Review Committee recommended that guidelines on best practices be provided to facilitate better understanding of the requirements. The guidelines were published upon the recommendation of the Review Committee in 2013; and</p> <p>(d) the Administration was following up on the recommendations of the Review Committee, and aimed to consult the stakeholders and the public on proposed amendments to BMO later this year.</p>	
004319 - 005127	Chairman Mr IP Kwok-him Admin	<p>Mr IP Kwok-him's expression of support for the Administration's introduction of a licensing regime to regulate the property management industry.</p> <p>In response to Mr IP Kwok-him's enquiry, the Administration advised that the following categories of entities would not be subject to the licensing regime and hence not required to obtain PMC licences -</p> <p>(a) companies providing only stand-alone services, such as those providing only cleansing or security services;</p> <p>(b) OCs or other forms of owners' organizations managing their own properties;</p> <p>(c) owners of the properties who provided property management services by themselves, if they were individuals and did not provide any property management services to another property for profit; and</p> <p>(d) the Government as well as the Housing Authority.</p> <p>The Administration cited Hong Kong Housing Society as an example where a statutory body would be required to obtain a PMC licence under the proposed licensing system.</p>	
005128 - 005607	Chairman Mr CHAN Kin-por Admin	<p>In response to Mr CHAN Kin-por's enquiry about the timetable for the Administration's review of BMO, the Administration advised that it was the plan of the Administration to conduct a public consultation on the Review Committee's recommendations for improvements to BMO by</p>	

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		<p>end-2014, following which the Administration would collate the views received and map out the way forward in 2015. If legislative amendments were considered necessary, feasible and desirable, the Administration would proceed with the preparation and drafting of the amendment bill to take forward proposals on which consensus had been reached in the community.</p>	
005608 - 010129	Chairman Mr KWOK Wai-keung Admin	<p>Mr KWOK Wai-keung's expression of support for the proposed regulatory regime and concern about the impact of the proposed licensing regime on the employment prospects of existing PMPs, particularly those who had practical experience but no formal training.</p> <p>The Administration's reiteration that a three-year transitional period would be provided for existing PMPs to prepare themselves to migrate to the new licensing system. After PMPs had obtained provisional licences during the transitional period, they would be allowed three years to complete continuing professional development courses, so that they could acquire the necessary qualifications for formal licences upon the expiry of their provisional licences. PMSA would liaise with industry organizations and local tertiary institutes to ensure that sufficient and appropriate continuing professional development courses would be provided to PMPs.</p>	
010130 - 011000	Chairman Mr WONG Kwok-hing Admin	<p>The Chairman and Mr WONG Kwok-hing sought information on the total number as well as academic and professional qualifications of existing in-service PMPs who would be subject to the proposed licensing system; and the respective numbers of these in-service PMPs who would meet the licensing criteria of formal licences and apply for the proposed PMP (Tier 1) and PMP (Tier 2) licences directly during the transitional period. Mr WONG hoped that continuing professional development courses could be organized for existing in-service PMPs as early as possible, preferably before the implementation of the new licensing system.</p> <p>The Administration's response that as there was currently no mandatory licensing system for PMPs, it was unable to provide an accurate estimation on the number of PMPs and a detailed breakdown of their qualifications at this stage.</p>	<b>Admin to provide the information (para. 5(a) &amp; (c) of the minutes refer)</b>

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		<p>According to a recent survey conducted by the Hong Kong Institute of Housing, it was estimated that there were around 4 000 practitioners who would be qualified as licensed PMPs (Tier 1) and 7 500 as licensed PMPs (Tier 2).</p> <p>In response to Mr WONG Kwok-hing's concern over the PMP licensing criteria, the Administration stressed that it was not the intention of the Administration to set a high threshold for the granting of PMP licences, undermining the employment opportunities of existing PMPs.</p>	
011001 - 011708	Chairman Deputy Chairman Admin	<p>The Deputy Chairman's concern over Clause 61 of the Bill which provided a defence for licensed PMPs acting as employees, worrying that it would provide a leeway for PMPs not to observe and follow the relevant Codes of Practice issued under s.44 of BMO and best practice guides to achieve effective building management and maintenance issued by the relevant government departments.</p> <p>The Administration advised that the proposed defence provision was modelled on similar provisions in other ordinances e.g. s.29A of BMO, s.119A of the Copyright Ordinance (Cap. 528) and s.79 of the Residential Properties (First-hand Sales) Ordinance (Cap. 621). Under this provision, a licensed PMP charged with a disciplinary offence for an act done or omitted to be done would have a defence if he could prove that he had acted in good faith and in a reasonable manner in accordance with the instructions given to him by or on behalf of his employer. The Administration stressed that all licensed PMPs would be required to comply with the requirements stipulated in the legislation and the code of conduct to be issued by PMSA. Breach of the requirements might result in disciplinary orders to be made by PMSA such as revocation or suspension of licences, and other sanctions such as reprimands, warnings, imposition of fine, etc.</p>	
011709 - 012128	Chairman Mr Frankie YICK Admin	Mr Frankie YICK's enquiry and the Administration's elaboration on the categories of entities which would not be subject to the proposed licensing regime.	

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012129 - 012854	Chairman Ms Starry LEE Admin	<p>Ms Starry LEE's views about the object of the Bill, and the professional standards and sense of responsibilities expected from a licensed PMC/PMP after the licensing system had come into operation.</p> <p>The Administration's advice that the detailed licensing criteria for PMCs and PMPs would be set out in the subsidiary legislation and the code of conduct to be issued by PMSA.</p>	
012855 - 013359	Chairman Mr CHAN Kin-por Admin	<p>Regarding the proposed exemption of OCs and other forms of owners' organizations, which managed their own properties, from the licensing regime, Mr CHAN Kin-por expressed concern as to whether it would create loopholes for people to circumvent the legislation. In his view, the Administration should specify the circumstances for getting exemption, by setting a limit on the maximum number of property units that could be managed by an exempted OC or owners' organization.</p>	
013400 - 014055	Chairman Mr KWOK Wai-keung Admin	<p>Mr KWOK Wai-keung's enquiry and the Administration's response on the licensing criteria for the two tiers of PMP licences, the necessary qualification requirements for obtaining PMP licences, the provision of vocational/professional training to prepare existing PMPs for the full implementation of the licensing system, and the estimated manpower supply and future market demand for the two tiers of licensed PMPs after the introduction of the new regulatory regime.</p>	<b>Admin to provide the information (para. 5 of the minutes refers)</b>
014056 - 014729	Chairman Ms Starry LEE Admin	<p>Discussion on measures to be put in place to help enhance the level of service quality and professionalism of PMPs, e.g. the requirements on pursuing continuing professional development courses; the minimum academic/professional qualification and experience requirements for obtaining the two tiers of PMP licences.</p>	
014730 - 015525	Chairman Deputy Chairman Admin	<p>The Deputy Chairman's view that the Administration should make it a mandatory requirement for all licensed PMCs and PMPs to fulfil the statutory requirements under BMO and to observe and follow the relevant Codes of Practice and best practice guides on building management. There should be a provision spelling out such requirement explicitly in the Bill so that it would become an integral part of the</p>	

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		<p>main legislation, upon the passage of the Bill.</p> <p>The Administration's response that while the Advisory Committee on the Regulation of the Property Management Industry would further deliberate on the matter at its next stage of work, the Deputy Chairman's suggestions could be explored subject to the advice of the Department of Justice.</p>	
015526 - 015553	Mr Alan LEONG Chairman	Mr Alan LEONG's concern as to whether the proposed regulatory regime would result in the monopolization of the market by large PMCs.	
015554 - 015757	Chairman Admin	<p>Dates of the next two meetings; and invitation for public views.</p> <p>The Chairman's closing remarks.</p>	

Council Business Division 2  
Legislative Council Secretariat  
21 July 2014