

**The Administration's response to the matters raised  
at the meeting of the Bills Committee  
on the Property Management Services Bill  
held on 25 November 2014**

**Purpose**

This paper provides the supplementary information requested by Members at the meeting of the Bills Committee on 25 November 2014.

**Information on Buildings with Different Forms of Owners' Organisations**

2. Neither owners' corporations (OCs) nor property owners are obliged to inform the Authority of the form of management of their buildings under the Building Management Ordinance (Cap. 344) (BMO). Therefore, the Home Affairs Department (HAD) does not have respective numbers of different forms of owners' organisations undertaking self-management of the buildings. Based on the information available to us, either collected by HAD frontline staff in their regular contacts with the owners or provided by the owners voluntarily, we estimate that the percentage of buildings with different forms of owners' organisations without engaging property management company (PMC) is as follow –

<b><u>Breakdown of buildings by type of owners' organisation</u></b>	<b><u>Percentage</u></b>
Buildings with OCs	78%
Buildings with Mutual Aid Committees	19%
Buildings with owners' committees or other forms of owners organisations (e.g. cooperative society, federation of owners limited company)	3%

3. We wish to reiterate that "self-management" does not necessarily mean poor or even below average management. The majority of the above-mentioned "self-managed" buildings/estates are properly managed. Owners and residents are generally satisfied with the current forms of management.

## **Self-management by OC**

4. There are established mechanisms for owners to terminate the appointment of both deed of mutual covenant managers and contract managers. In our earlier response to the Bills Committee, we have also undertaken that HAD frontline liaison officers will remain vigilant, through their regular contacts with the OCs, of any potential cases where OCs are planning to opt for “self-management”. If such case is identified, they will immediately render necessary advice to the OCs and owners concerned.

5. In view of the importance and significant implications to the management of the building if an OC decides to switch from engaging a PMC to “self-management”, we will propose to amend the BMO to require such decision be supported by the passage of a resolution at a general meeting of the OC. To cope with the changing needs and circumstances of building management, we are now conducting a public consultation exercise on the review of the BMO. We will make recommendations on the way forward having regard to the views received including the aforementioned proposed amendment in the next legislative amendment exercise of the BMO.

6. However, we consider that it is not appropriate to take forward such requirement in the Bill. The purpose of the Bill is to provide for the licensing of business entities and individuals engaged in the business of providing property management services. It is not the legislative intent of the Bill to regulate the operation of OCs, the legal basis of which should be provided for in the BMO.

## **Licensing Requirements for Property Management Practitioners (PMPs)**

7. The licensing requirements for PMP will be set in terms of academic qualifications, professional qualifications, years of working experience and the suitability of the person in holding PMP licence (the “suitability requirement” is set out in clause 11 of the Bill, which includes, e.g. whether the individual is a mentally disordered person, whether there is past conviction record on relevant offences, etc.). On the requirements on academic qualifications, professional qualifications and years of working experience for licensed PMP (Tier 1) and licensed PMP (Tier 2), our preliminary thoughts are set out in the table below –

	<b><u>Licensed PMP (Tier 1)</u></b>	<b><u>Licensed PMP (Tier 2)</u></b>
<b>Academic and/or Professional Qualifications</b>	<ul style="list-style-type: none"> <li>● Degree or equivalent qualification in property management to be specified by the Property Management Services Authority (PMSA) (plus at least 3 years of local working experience in property management); or</li> <li>● Other degrees or equivalent qualification or above (plus at least 5 years of local working experience in property management).</li> </ul>	<ul style="list-style-type: none"> <li>● Other degrees or equivalent qualification or above (applicable to those not fully satisfying the Tier 1 requirement); or</li> <li>● Diploma, sub-degree or equivalent qualification in property management to be specified by the PMSA.</li> </ul>
<b>Relevant Working Experience</b>	<ul style="list-style-type: none"> <li>● See requirements set out above.</li> </ul>	<ul style="list-style-type: none"> <li>● At least 2 years local working experience in property management; or</li> <li>● At least 1 year local working experience in property management under the supervision of a Tier 1 PMP.</li> </ul>
<b>Other Requirements</b>	<ul style="list-style-type: none"> <li>● Members of property management related professional bodies to be specified by the PMSA; or</li> <li>● Subject to assessment (e.g. interview) by the PMSA if considered necessary.</li> </ul>	<ul style="list-style-type: none"> <li>● Nil</li> </ul>

### **Who Will Be Required to Obtain the PMP Licence**

8. Our preliminary thought is in applying for a PMC licence, the PMC should submit its organisation chart to the PMSA. The PMSA will then specify in the licence as licence conditions which post holders should

hold PMP (Tier 1) or PMP (Tier 2) licences having regard to the optimal ratio of the number of licensed PMP (Tier 1) and licensed PMP (Tier 2) to the management portfolio of the PMC (e.g. number of flats or area to be managed). Employees filling posts requiring a licence should have the respective tier of licences, and the total number of such employees should correspond to the management portfolio of the PMC so as to ensure that there is sufficient managerial/supervisory staff to oversee the management of buildings. In case there is any change to the management portfolio, organisation structure or the post holder as a licensing condition, the PMC should inform the PMSA of such changes within specified timeframe. On summary, whether a person would need to obtain the PMP licence would depend on the post he holds as specified by the PMC in the organisation chart to be submitted to the PMSA.

### **What Company Will Be Required to Obtain the PMC Licence**

9. Property management requires multi-disciplinary professional knowledge. Modelling on the Specification of Competency Standards for Property Management Industry of the Hong Kong Qualifications Framework, Schedule 1 to the Bill lists out seven categories of property management services –

- (a) General management services relating to a property;
- (b) Management of the environment of a property;
- (c) Repair, maintenance and improvement of a property;
- (d) Finance and asset management relating to a property;
- (e) Facility management relating to a property;
- (f) Human resources management relating to personnel involved in the management of a property; and
- (g) Legal services relating to the management of a property.

10. Our preliminary thought is that except for “Management of the environment of a property”, which will be divided into four sub-categories, others will serve as stand-alone category. PMCs providing more than one category or sub-category of services will be required to obtain licences. Details of the expected services within each category are set out below –

(a) ***General management services relating to a property***

11. This category is on the daily services for and liaison with owners, residents and tenants. Examples include handling and following up on

enquiries, complaints and suggestions, convening of regular meetings such as owners' committee meeting, management committee meeting, owners' general meeting and annual general meetings and/or periodical submission of work report.

**(b) *Management of the environment of a property***

12. This category is on the cleanliness, hygienic conditions, landscape improvement and safety of the environment, and will be further divided into four sub-categories, namely –

- (i) Cleanliness of common types of buildings;
- (ii) Landscape design and maintenance;
- (iii) Environmental protection; and
- (iv) Security and fire safety.

**(c) *Repair, maintenance and improvement of a property***

13. This category is on repair and maintenance of the building structure and its facilities including ventilation, plumbing and drainage, air-conditioning and electrical installations. It also involves the maintenance and continuous improvement of the functions of a building in order to enhance its value. Purchasing and outsourcing of repair and maintenance works of buildings are included.

**(d) *Finance and asset management relating to a property***

14. This category is on financial management and budget preparation. Examples include collection of management fees, submission of income and expenditure statement and balance sheet and calculation of annual expenditure on regular items and service contracts.

**(e) *Facility management relating to a property***

15. This category is on property management related facility management including the management of club house, shopping centre and other types of ancillary facility e.g. carparks and loading areas. For the management of club house, it includes the application of relevant licences and maintenance and replacement of recreational facility. For the management of shopping centre, it includes the use, management and development of such facilities or premises. For the management of

carparks and loading areas, it includes the access control system, illumination, air quality and direction signs etc.

(f) ***Human resources management relating to personnel involved in the management of a property***

16. This category is on the plan on manpower needs, staff recruitment, training, performance assessment and work safety.

(g) ***Legal services relating to the management of a property***

17. This category is on the understanding on the general scope of work of government departments and the judiciary system, arrangement of litigation and mediate, drafting of contracts and provide suggestions on the BMO.

18. On Members' concern whether professional bodies or Members' Offices would need to obtain the PMC licence to provide free advisory service or legal advice to owners' organisations, we will consider specifying in the Bill that only entities which provide property management services for monetary or other financial rewards would be required to obtain the PMC licence.

**Difference Between “Providing Property Management Services” and “Acting As a PMC”**

19. Clause 2 is on the interpretation, which provides that “PMC” means a business entity (whether a company, partnership or sole proprietorship) that carries on the business of providing property management services. Clause 6(1)(a) is on the prohibition of unlicensed activities, which provides that no person may, without a PMC licence, act as a PMC. Clause 7(2) provides the exception that, amongst others, clause 6(1)(a) does not apply to a PMC whose business does not involve the provision of property management services that fall within more than one category or one type of services.

20. By virtue of the above provisions, while a business entity may be a PMC under clause 2 by carrying on the business of providing property management services, given clauses 6(1)(a) and 7(2), if the entity, without a PMC licence, only provides one stand-alone category of services, it will not commit an offence.

## Observations/Comments on Other Issues

### (a) “Owners’ Organisations (業主組織)”

21. As stated in paragraph 2 above, other than OCs, Mutual Aid Committees and owners’ committees, there are other forms of owners organisations e.g. cooperative society, federation of owners limited company, etc. which currently do not engage PMCs. While we do not have the exhaustive list of the various kinds of owners’ organisations, we consider that it is desirable to retain flexibility in the definition of “owners’ organisation (業主組織)” in clause 2 of the Bill so that such types of owners’ organisations could continue to self-manage their properties after the implementation of the licensing regime.

### (b) “Company (公司)”

22. We are of the view that the Chinese text of the definition of “公司” is accurate. A list of example of other legislations where “及” was used to link up a series of paragraphs introduced by “包括” is at the Annex for Members’ reference.

23. If there is any concern from the Members, we will consider moving “body corporate” in the chapeau of the English text of the definition to paragraphs (a) and (b) of the definition, and using “and” to link up paragraphs (a) and (b).

### (c) “Clients (客戶)”

24. For clause 16 of the Bill, we are of the view that “clients (客戶)” should include the property owners who pay or who are liable to pay the management expenses. We will consider making necessary amendments to the Bill.

## Use of “包括” and “及” in legislation

### Examples in Principal Ordinances

#### s.2, Mandatory Provident Fund Schemes Ordinance (Cap. 485)

**紀錄** (record) 指不論以任何方式編纂、記錄或貯存的任何資料紀錄，並包括—

- (a) 任何簿冊、紀錄冊或載有資料的其他文件；及
- (b) 任何能夠從中產生資料的紀錄碟、紀錄帶或其他物品；

**record** (紀錄) means any record of information, however compiled, recorded or stored, and includes-

- (a) any book, a register and any other document containing information; and
- (b) any disc, tape or other article from which information is capable of being produced;

#### S.2, West Kowloon Cultural District Authority (Cap. 601)

“**相關設施**”(related facilities) 指在批租地區內提供的任何設施(藝術文化設施除外)，該等設施被包含在核准發展圖則中劃為該等設施的任何土地內，並包括—

- (a) 任何零售、飲食或娛樂設施；
- (b) 為在該區內運載乘客及其個人財物而建造或改裝的機械系統(如有的話)；
- (c) 道路、公眾碼頭及其他運輸設施；
- (d) 公眾停車場；
- (e) 公眾休憩用地；及
- (f) 管理局認為屬必需或合宜的其他設施；

“related facilities” (相關設施) means any facilities other than arts and cultural facilities provided within the leased area that are comprised in any land set apart for such facilities in the approved development plan, including—

- (a) any retail, dining or entertainment facilities;



- (b) a mechanical system (if any) which is constructed or adapted for the carriage of passengers and their personal effects within such area;
- (c) roads, public piers and other transport facilities;
- (d) public car parks;
- (e) public open space; and
- (f) such other facilities as the Authority considers necessary or expedient;

## **s.2, Buildings Energy Efficiency Ordinance (Cap. 610)**

**住宅建築物** (residential building) 指純粹作住宅用途的建築物，並包括—

- (a) 學生宿舍及員工宿舍；及
- (b) 綜合用途建築物的作住宅用途的部分，但不包括旅館；

**residential building** (住宅建築物) means a building solely used for residential purposes and includes—

- (a) student hostels and staff quarters; and
- (b) a portion of a composite building that is for residential use, but does not include a hotel or a guesthouse;

## **Examples in Subsidiary Legislation**

### **s.2, Harmful Substances in Food Regulations (Cap. 132AF)**

**煉奶** (condensed milk) 指經稠煉(稠煉方法是將其部分水分蒸發，不論有否加糖)的奶類，並包括—

- (a) 任何用脫脂奶或部分脫脂奶製造的該等經稠煉奶類；及
- (b) 淡奶；

**condensed milk** (煉奶) means milk which has been condensed by the evaporation of a portion of its water content, whether or not sugar has been added, and includes-

- (a) any such milk made from skimmed milk or partly skimmed milk; and
- (b) evaporated milk;

**s.2, Securities and Futures (Disclosure of Interest-Securities Borrowing and Lending) Rules (Cap. 571X)**

“股份”(shares) 指上市法團的有投票權股份，並包括—

- (a) 上述有投票權股份的權益；及
- (b) 相等股份；

"shares" (股份) means voting shares in a listed corporation and includes-

- (a) an interest in such voting shares; and
- (b) equivalent shares;

**s.3(1), Companies (Disclosure of Information about Benefits of Directors) Regulation (Cap. 622G)**

**退休利益計劃** (retirement benefits scheme) 指提供退休利益的計劃，並包括—

- (a) 《稅務條例》(第112章)第2條所界定的認可職業退休計劃；
- (b) 該條所界定的強制性公積金計劃；及
- (c) 退休保險計劃；

**retirement benefits scheme** (退休利益計劃) means a scheme for the provision of retirement benefits, and includes—

- (a) a recognized occupational retirement scheme as defined by section 2 of the Inland Revenue Ordinance (Cap 112);
- (b) a mandatory provident fund scheme as defined by that section; and
- (c) a retirement insurance scheme;