

**Bills Committee on
Property Management Services Bill**

**List of follow-up actions arising from the discussion
at the meeting on 4 May 2015**

Matters arising from the last meeting on 21 April 2015

1. The Administration was requested to -
 - (a) continue to communicate with the seven professional bodies to listen to their views on the proposed licensing criteria for property management practitioners ("PMPs), and to report to the Bills Committee on the outcome of the discussion or consensus, if any, reached; and
 - (b) provide detailed responses to the issues raised by members at the last meeting regarding the immunity and privilege against self-incrimination provisions respectively under Clauses 30 and 31 (paragraph 3(b) of LC Paper No. CB(2)1359/14-15(01) refers).

Issues and concerns on specific clauses

2. The Administration was also requested to consider the suggestion made by the Legal Adviser to the Bills Committee to add a provision to Part 6 of the Bill to make it clear if the appeal tribunal also had power to make an order for costs and expenses incurred in relation to hearings before the tribunal, as in the situation provided in Clause 25(2) relating to disciplinary hearings, and to clarify whether the meaning of "costs and expenses" in Clause 25(2) covered lawyer fees/legal costs incurred in the disciplinary proceedings and hearings.
3. The Administration was requested to advise on the timetable for making available the draft regulation to be made by the Secretary for Home Affairs under Clause 38 of the Property Management Services Bill ("the Bill").
4. Clause 39(3) stipulated the penalties for contravention of subsection (1) or (2) which provided for the offences relating to appeal. Noting that other legislation, e.g. the Criminal Procedure Ordinance (Cap. 221) ("CPO"), had similar provisions, the Bills Committee requested the Administration to provide information on -
 - (a) whether and how the penalty provisions under Clause 39(3) differed from those penalty provisions for offences of the same nature and similar gravity in other legislation;

- (b) whether a person committed the offences stipulated under Clause 39(1) or (2) of the Bill would be subject to the prosecution of a similar offence under CPO;
- (c) the rationale for making specific provisions in the Bill (i.e. Clauses 28(3) and 39(3)) on the offence of giving false or misleading evidence, information or document at both the disciplinary hearing and the appeal while there were similar provisions in other ordinances; and
- (d) whether prosecution would be taken out twice against a person who gave evidence, or provided information or document, that was false or misleading in a material particular at both the disciplinary hearing and the appeal proceeding as specified under Clauses 28 and 39 of the Bill.

5. In relation to Clause 45, the Administration was requested to -

- (a) consider a member's suggestion that amendments be made to the Bill to combine Clauses 45(1) and (2), so as to make them easier to read; and
- (b) give examples to illustrate what might be covered under "the class or description of the interests required to be disclosed" as determined by the Property Management Services Authority ("PMSA") under Clause 45(3).

6. Members of the Bills Committee had grave concerns over the requirement for disclosure of interests by members of PMSA, members of the disciplinary committee and members of the appeal tribunal, both at the time of their appointment and during the period of holding office. The Administration was requested to provide information on the requirements, procedures and operation of PMSA and its committees as well as the appeal tribunal concerning disclosure of interests by members of PMSA and non-PMSA members under different circumstances, in particular, disclosure of interests of or relationship with the property management companies or PMPs who were subject to the disciplinary proceedings before the commencement of the proceedings/appeal hearings. The information to be provided should include the provisions related to the disclosure of interests and/or administrative guidelines to be issued by PMSA.