

**The Government's response to the matters raised
at the meeting of the Bills Committee
on the Property Management Services Bill
on 8 June 2015**

Purpose

This paper sets out the Government's response to Members' concerns raised at the meetings of the Bills Committee on 8 June 2015 and earlier.

Licensing Requirements for Property Management Practitioner (PMP) (Tier 1) Licence

2. As mentioned in our earlier replies, we and the property management industry-related professional bodies have agreed that the direction and major principles of the licensing criteria should cover four aspects, namely academic qualifications, professional qualifications, years of working experience and the suitability of the person in holding PMP licence. In response to the views raised by some industry-related bodies earlier on, we have met with the relevant bodies several times. After communication and clarification, we have reached a consensus with the industry on the licensing criteria for PMP (Tier 1) as follows:

The person concerned should hold –

- (i) (a) degree or equivalent qualification in property management to be specified by the Property Management Services Authority (PMSA), plus at least three years of local working experience in property management; or
- (b) other degree(s) or equivalent qualification or above, plus at least five years of local working experience in property management;

and

should be –

- (ii) (a) member of property management related professional bodies¹ to be specified by the PMSA; or
- (b) member of other equivalent professional bodies as assessed and recognised by the PMSA and would be subject to professional assessment in relation to property management by the PMSA.

Courses Recognised by PMP related Professional Bodies

3. It is to our understanding that there are currently 14 professional courses recognised by the PMP related professional bodies in the Advisory Committee on the Regulation of the Property Management Industry. A list of the courses is at Annex. In 2014-15, the estimated number of students of these courses was about 680.

Property Management Companies (PMCs)

4. As there is currently no statutory requirements for registration of PMCs, we have no information on the exact number of PMCs. According to an earlier consultancy study, there are at present some 800 PMCs, among which about 300 are large scale companies², while the remaining 500 are medium and small sized companies.

5. In formulating the policy for regulating the property management industry, we firmly adhere to the principle that there should not be any unnecessary entry hurdles for PMCs and PMPs and that there should continue to be free entry to the industry and fair competition. To this end, the Bill provides for a single-tier licensing regime for PMCs to avoid labelling effects. In addition, companies providing stand-alone

¹ In 2011, the Home Affairs Department set up the Advisory Committee on the Regulation of the Property Management Industry. It consists of a number of PMP related professional bodies. These include the Chartered Institute of Housing, The Hong Kong Institute of Facility Management, The Hong Kong Institute of Housing, The Hong Kong Institute of Surveyors, the Housing Managers Registration Board and the Royal Institution of Chartered Surveyors.

² The 300 large scale companies are mostly members of the Hong Kong Association of Property Management Companies (HKAPMC) and related companies. A PMC is eligible for consideration as a full member of HKAPMC if it satisfies that:

- (1) In the case of a firm, a partner of the firm has over five years' proven property management experience or, in the case of a corporation, the corporation has over two years' experience in managing properties in Hong Kong; and
- (2) The firm or corporation is managing:
 - (a) over 1 000 residential units; or
 - (b) over 30 000 square metres of industrial space; or
 - (c) over 10 000 square metres of commercial space.

services, such as those providing only cleansing or security services, will be excluded from the regulatory regime to avoid creating unnecessary entry hurdles for these companies.

6. The Bill empowers the PMSA to set out in the subsidiary legislation the licensing criteria that PMCs must satisfy. Our preliminary thinking is that the licensing criteria will include the minimum number of directors and employees holding PMP licences, the suitability of the company in holding PMC licence (for instance, whether the company is in liquidation or subject to a winding-up order, whether there is past conviction record on relevant offences, the suitability of the directors), etc. As the PMSA has yet to draw up the details of the licensing criteria, we are unable to estimate the number of eligible companies at this stage. The PMSA will give due consideration to the above principle and the views of the industry and other stakeholders when formulating the detailed licensing criteria in future.

Clause 48

7. The purpose of clause 48 of the Bill is to empower the Chief Executive to give the PMSA written directions for performing any of its functions where the Chief Executive is satisfied that it is in the public interest to do so. The Chief Executive will consider whether to invoke his powers having regard to the actual circumstances.

8. In drafting the above provision, we have examined the arrangements of other regulatory bodies. Provisions similar to clause 48 of the Bill are found in the ordinances of certain regulatory bodies, such as the Estate Agents Ordinance (Cap. 511)³. According to the Estate Agents Authority (EAA), the Chief Executive has never resorted to the relevant provision to give written directions to EAA.

³ Section 7 of the Estate Agents Ordinance (Cap. 511) sets out the Directions by Chief Executive. Details are as follows:

- (1) The Chief Executive may, if he considers the public interest so requires, give to the Authority such written general directions as to the performance of any of its functions as he considers appropriate.
- (2) The Authority shall, as soon as practicable, comply with any direction under this section.
- (3) A direction under this section shall remain in force until it is withdrawn by the Chief Executive.
- (4) Nothing in this section shall be construed as enabling the Chief Executive to exercise any power or control in relation to-
 - (a) any particular application or other matter with which the Authority or a committee is concerned; or
 - (b) any particular case with which a tribunal appointed under section 32(6) is concerned or which is pending.

Section 3 of Schedule 3

9. The arrangement of providing remuneration to members is not uncommon in other regulatory bodies or statutory bodies/committees, such as the Securities and Futures Commission, the Competition Commission and the Guardianship Board established under the Mental Health Ordinance (Cap. 136), etc. As regards the wording of the provision, it differs among the ordinances. For instance, “remuneration, allowances or expenses” is used in the Securities and Futures Ordinance (Cap. 571); “remuneration and allowances” are used in the Competition Ordinance (Cap. 619); and members of the Guardianship Board under the Mental Health Ordinance (Cap. 136) are provided with “fees and allowances”.

10. Our policy intent is to empower the Chief Executive to determine the provision of nominal remuneration or allowances to members of the PMSA. In light of the concern of Members over the use of the wording “remuneration”, we will consider making reference to the above ordinances and amending section 3 of Schedule 3 to the Bill by replacing the term “remuneration” with some other more appropriate wording (such as “fees”).

Section 6 of Schedule 3

11. Section 6 of Schedule 3 to the Bill provides that if, for any period, the Chairperson is temporarily absent from Hong Kong or, for any other reason, temporarily unable to perform the functions of the office of Chairperson, the Vice-chairperson is to act in the place of the Chairperson during that period. The policy objective of the provision is to ensure the normal operation of the PMSA when the Chairperson is temporarily unable to perform the functions of his office by requiring the Vice-chairperson to act in the place of the Chairperson during the period.

12. Having thoroughly considered Members’ concerns, we agree that even if the Chairperson is temporarily out of town, he may still be able to perform the functions of the office of Chairperson by way of telephone, video conferencing or other electronic means under certain circumstances. We will, in consultation with the Department of Justice, suggest amendments to the Bill to empower the Chairperson of the PMSA to determine, having regard to the specific circumstances, whether it is necessary to arrange an Acting Chairperson to act in his place when he is temporarily absent from Hong Kong.

Database of Judgments of the PMSA, Disciplinary Committee and Appeal Tribunal

13. Clause 13(1) of the Bill provides that the PMSA must keep a PMC register, a PMP (Tier 1) register and a PMP (Tier) 2 register. Clauses 13(2)(h), (3)(e) and (4)(e) prescribe that the registers must contain the conviction record of the PMC and PMP in relation to disciplinary offences or criminal offences under the Bill; subclause (5) stipulates that the PMSA must make the registers available for inspection free of charge at the offices of the PMSA, through the Internet or a similar electronic network and in any other manner the PMSA considers appropriate. Our preliminary thinking is that the conviction record in the registers will include the disciplinary offences committed by and the relevant punishments of the licensees.

14. In addition, section 20 of Schedule 3 of the Bill also provides that after the end of each financial year of the PMSA, the PMSA must prepare an annual report, which must contain an outline of the investigations conducted, a summary of complaints received, as well as an outline of all proceedings brought before appeal tribunals. The PMSA will also file for record the reasons of the decisions of the PMSA, the disciplinary committee and the appeal tribunal.

15. We have made reference to the relevant ordinances and specific arrangements of other similar regulatory bodies (e.g. the EAA), and note that there is no requirement or arrangement for making available the judgments of such bodies for public access. We consider that our proposed arrangement will allow the public to fully understand the decisions of the PMSA, the disciplinary committee and the appeal tribunal and the relevant reasons. Regarding Members' suggestion to make available the judgments of the PMSA, disciplinary committee and appeal committee for public access, we will refer it to the future PMSA for consideration.

Home Affairs Department
July 2015

**Courses Recognised by Property Management Practitioners (PMP)
related Professional Bodies**

	Property Management related Degree or Equivalent or above Courses offered by Universities or Tertiary Institutions and Recognised by PMP related Professional Bodies	Organising Universities/ Institutions
1.	Master of Housing Management (Professional Stream)	The University of Hong Kong
2.	Master of Science in Real Estate	The University of Hong Kong
3.	Bachelor of Science in Surveying	The University of Hong Kong
4.	Professional Diploma in Housing Management	The University of Hong Kong School of Professional and Continuing Education
5.	Master of Arts in Housing Studies	The City University of Hong Kong
6.	Bachelor of Social Science (Hons) in Administration and Public Management (Housing Studies Stream)	The City University of Hong Kong
7.	Bachelor of Arts (Hons) in Housing Studies (Enrolment suspended from 2009)	The City University of Hong Kong
8.	Bachelor of Arts (Hons) in Public Administration and Management	The City University of Hong Kong School of Continuing and Professional Education
9.	Master of Science in Construction and Real Estate	The Hong Kong Polytechnic University
10.	Master of Science in Facility Management	The Hong Kong Polytechnic University
11.	Bachelor of Science (Hons) in Property Management	The Hong Kong Polytechnic University
12.	Bachelor of Science (Hons) in Surveying	The Hong Kong Polytechnic University
13.	Bachelor of Arts (Hons) in Housing Management	The Hong Kong Polytechnic University School of Professional Education & Executive Development
14.	Foundation Degree of Arts in Housing and Bachelor of Arts with Honours in Housing Studies	Leeds Beckett University, United Kingdom