

Bills Committee on Property Management Services Bill**Summary of major issues of concerns discussed and the Administration's response**

(position as at 23 October 2015)

Clause no.	Issues of concerns	The Administration's response	Draft Committee stage amendments ("CSAs") to the Bill
---	<p>There was a view that the Administration should make it a mandatory requirement for all licensed property management practitioners ("PMPs") and property management companies ("PMCs") to fulfill the statutory requirements under the Building Management Ordinance (Cap. 344) ("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 Property Management Services Bill ("the Bill") so that it would become an integral part of the main legislation, upon the passage of the Bill (please refer to LC Paper Nos. CB(2)2091/13-14 and CB(2)2356/13-14).</p>	<p>The issue will be addressed in the Codes of conduct (please refer to "Summary of matters that would be addressed in the subsidiary legislation / codes of conduct / administrative guidelines to be issued by the Property Management Services Authority").</p>	Nil

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---	<p>There was a view that the Administration should require that owners' corporation ("OC")'s decision to opt for "self-management" without engaging any PMC had to be made by passing a resolution at an owners' meeting, and that amendments should be made either to BMO or the Bill to provide for such a requirement (please refer to Annex to LC Paper No. CB(2)367/14-15 and P.1 of Annex A to CB(2)557/14-15).</p> <p>There was a view that the Administration should consider ways to shorten the gap between the enactment of the Bill and the passage of the proposed amendments to the BMO, in order to avoid circumvention of the "self-management" exceptions provided in Clause 7 of the Bill (please refer to Annex A to LC Paper No. CB(2)774/14-15).</p>	<p>The Administration would propose to amend BMO to require such a decision be supported by the passage of an owners' resolution at a general meeting of the OC (please refer to Para. 5 of LC Paper No. CB(2)556/14-15(02)).</p> <p>The Administration would, in consultation with DoJ, consider the feasibility of taking forward the proposed amendment by introducing suitable CSAs to the Bill (please refer to para. 3 of LC Paper No. CB(2)776/14-15(02)).</p>	Being considered by the Administration
Clause 2 - Interpretation	Concern was raised as to whether the scope of definition of "owners' organization (業主組織)" under Clause	The Administration considered it desirable to retain flexibility in the definition of "owners' organization (業	Nil

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	<p>2 of the Bill was too wide. There was a suggestion that instead of defining the term as "an organization (whether or not formed under BMO or a Deed of Mutual Covenant that is authorized to act on behalf of all the owners of the property", it would be more appropriate for the Administration to list out all possible forms of owners' organizations in order to remove any uncertainty in this respect in future (please refer to Annex A to LC Paper No. CB(2)557/14-15).</p>	<p>主組織)" in Clause 2 so that different types of owners' organizations could continue to self-manage their properties after the implementation of the licensing regime (please refer to Para. 21 of LC Paper No. CB(2)556/14-15(02)).</p>	
	<p>Clause 16 provided that a licensed PMC must prepare the prescribed information and provide the information to the PMC's clients in the prescribed manner. Since the term "clients" was not defined in the Bill, concern was raised on whether "clients" referred to OCs, owners' organizations, individual owners and/or tenants. The Administration was requested to consider the need for including a definition of "clients" in Clause 2 or Clause 16 of the Bill (please refer to</p>	<p>For Clause 16 of the Bill, the Administration was of the view that "clients (客戶)" should include the property owners who paid or who were liable to pay management expenses. The Administration would consider making necessary amendments to the Bill (please refer to para. 24 of CB(2)556/14-15(02)).</p>	<p>To be proposed by the Administration</p>

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	Annex A to LC Paper No. CB(2)557/14-15).		
	Under Clause 2, "Property Management Practitioner" was defined as "an individual who assumes a managerial or supervisory role in a property management company in relation to property management services provided by the company". There was a concern that the meaning of "management or supervisory" was unclear. The Administration was invited to clarify or elaborate what constituted a managerial or supervisory role and what level of supervision did a staff need to attain before he/she was qualified in a supervisory role (please refer to para. 2.5 to 2.7 of LC Paper No. CB(2)2189/13-14(01)).	The Administration's preliminary thought is that, in applying for a PMC licence, PMC should submit its organization chart to the Property Management Services Authority ("PMSA"). 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 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 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, organization structure or the	Nil

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		<p>post holder as a licensing condition, PMC should inform 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 PMC in the organization chart to be submitted to the PMSA (please refer to para. 8 of CB(2)556/14-15(02)).</p>	
<p>Clause 4 - Disciplinary of offence</p>	<p>---</p>	<p>The Administration undertook to consider expanding the scope of Clause 4(d) to include non-compliance with -</p> <ul style="list-style-type: none"> ◆ summons issued by PMSA under Clause 24(1)(b)(ii) or (iii) requiring a person to give evidence or provide information or document; ◆ an investigator's notice given under Clause 21(2)(a) to (d); or ◆ summons issued by an appeal tribunal under Clauses 36(1)(b) 	<p>To be proposed by the Administration</p>

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		<p>requiring a person to attend a hearing as a witness, give evidence or provide information or document.</p> <p>(please refer to Annex A to LC Paper No. CB(2)774/14-15, para. 10 of LC Paper No. CB(2)776/14-15(02) and para. 10(a)&(b) of Annex 1 to LC Paper No. CB(2)1761/13-14(04)).</p>	
<p>Clause 5 - Codes of conduct for section 4</p>	<p>It was pointed out that, as presently drafted, PMSA's power to issue codes of conduct under Clause 5(1) was limited to specifying matters relevant to the question of misconduct or neglect in a professional respect under Clause 4(a). If such codes of conduct were also intended to deal with other matters such as criminal offences that might bring the profession into disrepute (Clause 4(e)(i)) or licensee's duties (e.g. with regard to accounting matter) (Clause 16), consideration should be given to expanding the scope of Clause 5(1) and amending the heading of Clause 5. The Bill as presently drafted</p>	<p>The Administration agreed that the scope of Clause 5(1) should be expanded to deal with matters such as offences that might bring the profession into disrepute and licensee's duties. It would consider moving CSAs to the Bill . (please refer to para. 10 of LC Paper No. CB(2)776/43-15(02)).</p> <p>The Administration further advised that given the importance of the codes of conduct, it agreed that PMSA should be required to publish them in the gazette. PMSA could also publish the codes of conduct through other</p>	<p>To be proposed by the Administration</p>

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	contained no provision empowering PMSA to issue codes of practice (please refer to Annex A to LC Paper No. CB(2)774/14-15).	additional means, e.g., posting onto its website. The Administration would consider making necessary amendments to the Bill (please refer to para. 13 of Annex 1 to LC Paper No. CB(2)1761/13-14(04)).	
Clause 6 - Prohibition of unlicensed activities	---	The Administration agreed that Clause 6(2)(c) and (3)(c) should also apply to situations where a person described himself as a "registered professional property manager" or a "licensed property management officer" in a language other than Chinese or English. The Administration would consider elaborating Clause 6(2)(c) and (3)(c) by adding a prohibition to describe oneself in any language as "registered professional property manager" or "licensed property management officer" or in any similar term or title so as to be capable of deceiving or misleading any person into believing that the person was licensed PMP (Tier 1) or licensed PMP (Tier 2) (please refer to para. 6(a)&(b) of Annex 1 to LC Paper No.	To be proposed by the Administration

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		CB(2)1761/13-14(04)).	
<p>Clause 7 - Exceptions to section 6</p>	<p>Members expressed concern about Clause 7 which provided that the prohibition against unlicensed activities under Clause 6 would not apply to an owner's organization or individual owners who provided their own property with property management services without engaging a PMC or PMP. It was suggested that a limit should be imposed on the maximum number of property units that could be self-managed by individual owners, OCs or other forms of owners' organizations under Clause 7(3) of the Bill, in order to plug the potential loopholes that might arise from the proposed exceptions (please refer to Annex to LC Paper No. CB(2)300/14-15 and Annex to LC Paper No. CB(2)367/14-15).</p> <p>For the maximum number of property units that could be managed by an OC, owners' organization or individual owners under Clause 7 of the Bill, there</p>	<p>The Administration undertook to explore feasible options, including making amendments to the Bill, to address members' concerns, for example, disallowing OC of building with certain number of units or above from "self-management" (please refer to para. 5 of LC Paper No. CB(2)776/14-15(02)).</p>	<p>To be advised by the Administration</p>

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	<p>was a suggestion that the limit be set at 1,800 units (please refer to LC Paper No. CB(2)557/14-15).</p>		
	<p>It was pointed out that it was the intention of the Administration to subject only those multi-storey buildings involving shared ownership of common parts and with Deed of Mutual Covenants ("DMCs") in effect to the licensing regime. There was a suggestion that the following situations should be excluded from the Bill: (a) the sole owner of a part in a development involving no shared ownership of common areas, and (b) two owners owned the commercial accommodation without strata-title, either or both of the owners (please refer to LC Paper No. CB(2)2189/13-14(01)).</p>	<p>According to the Administration, it is its policy intent to subject those multi-storey buildings involving shared ownership of common parts and with DMC in effect to the licensing regime. PMCs managing property with shared ownership and with DMC in effect should be required to obtain a PMC licence.</p>	<p>Nil</p>
<p>Clause 10 - Application for renewal of licences</p>	<p>Clause 10(1)(a) provided that an application for the renewal of a licence must be made to the PMSA within two months before the expiry of the licence. There was a suggestion that to facilitate</p>	<p>The Administration advised the Bills Committee on its preliminary thinking on the licence renewal procedures at the meeting on 27 February 2015. For the application for the renewal of a</p>	<p>To be proposed by the Administration</p>

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	<p>licensees in maintaining business viability and stability, consideration should be given to extend the two-month period for application for renewal of licences to say, six months (please refer to Annex A to LC Paper No. CB(2)987/14-15).</p>	<p>PMP and PMC licence, the applications should be made three to six months before expiry and six to nine months before expiry respectively. For the latter, a longer time was provided because more factors would need to be considered by PMSA. Depending on the actual circumstances of the case, the Administration proposed to empower PMSA to issue short-term exemption (say, three to six months) to those PMCs whose licence renewal applications were rejected, so that PMCs could continue to provide service to existing OCs and owners and assist them to hire new service providers within the exemption period. The Administration also proposed to empower PMSA to exercise discretion to handle licence renewal applications made after the stipulated timeframe or after the expiry of the licences on a case-by-case basis. The Administration would, in consultation with DoJ, consider introducing suitable CSAs to the Bill.</p>	

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Clause 13 - Registers	---	The Administration agreed that for Clause 13(2)(h), it was necessary to clarify that section 2 of the Rehabilitation of Offenders Ordinance (Cap. 297) would only apply to PMCs that were natural persons. The Administration would consider introducing suitable CSAs to the Bill (please refer to P.4 of Annex A to LC Paper No. CB(2)1113/14-15 and para.6 of LC Paper No. CB(2)1094/14-15(02)).	To be proposed by the Administration
	---	In response to members' concern over Clause 13(7), the Administration advised that the primary purpose of Clause 13(7) was to protect the privacy of PMPs but not that of the PMCs. It would consider introducing CSAs to the Bill so that the conviction records of PMCs would be available on the Internet, and that the conviction records of PMPs would only be available for inspection at PMSA's office (please refer to para. 7 of LC Paper No. CB(2)1094/14-15(02) and LC Paper No. CB(2)1761/13-14(03)).	To be proposed by the Administration

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	<p>The Administration was requested to consider the need to amend Clause 13(8) to the effect that the "copy of the whole or a part of a register" referred to in the Clause must not include particulars of a licensee's conviction record mentioned in subsections (3)(e) or (4)(e) (please refer to Annex A to LC Paper No. CB(2)1113/14-15).</p>	<p>The Administration would consider introducing a CSA to the effect that no person would be allowed to obtain a copy of the PMP's conviction records from the register (please refer to para. 7 of LC Paper No. CB(2)1094/14-15(02) and LC Paper No. CB(2)1761/13-14(03)).</p>	<p>To be advised by the Administration</p>
<p>Clause 15 - Regulations for Part 3</p>	<p>Clause 15(1)(c) provided that PMSA had the power to prescribe, inter alia, the criteria for a PMC hold a license. It might include a criterion that the applicant company must have sufficient number of directors and employees who were licensed PMPs.</p> <p>The Law Society of Hong Kong ("the Law Society") pointed out that in reality, it was common for a management company to be held by a parent company. In order to save cost and have the resources shared among a number of developments, the staff of the parent company might be seconded to different developments to carry out</p>	<p>The Administration advised that Clause 2 of the Bill defined a PMP as an individual who assumed a managerial or supervisory role in a PMC in relation to property management services provided by the company. PMSA will take into account the Law Society's suggestions in proposing the PMC licensing criteria.</p>	<p>Nil</p>

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	<p>jobs from time to time so that each development could have access to legal advice, human resources recruitment assistance, etc. without having to employ an in-house lawyer or HR manager for each development. This practice helped minimizing management cost resulting in lower management fees, which was in the interest of the owners. The Administration was invited to clarify whether the secondees in the above scenario would be recognized as employees for the purpose of Clause 15. If recognized, how would their employment be calculated to satisfy the requirement in Clause 15 (please refer to LC Paper No. CB(2)2189/13-14(01)).</p>		
<p>Clause 16 - Licensed PMC's duty to provide information to clients</p>	<p>Under Clause 16, a licensed PMC was required to provide the PMC's clients with prescribed information to be prescribed by PMSA. As the Administration had agreed that a licensed PMC should have the responsibility to inform their clients of</p>	<p>The issue will be addressed in the administrative guidelines (please refer to "Summary of matters that would be addressed in the subsidiary legislation / codes of conduct / administrative guidelines to be issued by the Property Management Services Authority").</p>	<p>Nil</p>

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	<p>PMSA's intention that its licence was not to be renewed or should be revoked, the Administration was requested to consider the need to move CSAs to Clause 16(3) to require PMCs to provide such information to their clients (please refer to Annex A to LC Paper No. CB(2)1113/14-15).</p>		
	<p>Concern was raised that the wordings of Clause 16(3) appeared to be too wide which entitled the owners to all books and records of PMC relating not only to the relevant development, but also relating to other developments or business managed/conducted by PMC which were totally irrelevant to the particular development. Also, Clause 16 seemed to be silent on the burden of the cost for providing the prescribed information (please refer to para. 4 of LC Paper No. CB(2)2189/13-14(01)).</p>	<p>The Administration advised that Clause 16 of the Bill was intended to require a licensed PMC to provide its client with prescribed information that related to the property management services provided by it to that client in the prescribed manner. The provision of the information was intended to be confined to information that related to the relevant development only. It would consider moving necessary CSAs to the Bill to reflect the intent more clearly (please refer to P.3 of LC Paper No. CB(2)22/14-15(04)).</p> <p>According to the Administration, Clause 16(2) in the present form did not empower PMSA to make</p>	<p>To be proposed by the Administration</p>

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		<p>regulations relating to the burden of cost for providing the prescribed information. Paragraph 1(7) of Schedule 7 to BMO provided that if any owner requested in writing the manager to supply him with a copy of any draft budget, budget or revised budget, the manager should, on payment of a reasonable copying charge, supply a copy to that owner. Paragraph 2(5) of Schedule 7 to BMO provided that the manager should permit any owner, at any reasonable time, to inspect the books or records of account and any income and expenditure account or balance sheet, and on payment of a reasonable copying charge, supply any owner with a copy of any record or document requested by him. The Administration would consider moving necessary CSAs with reference to similar provisions in BMO (please refer to LC Paper No. CB(2)22/14-15(04)).</p>	

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Part 4 (Clauses 16 & 17) - Duties of Licences	Under Clause 16, a licensed PMC was required to provide its accounts and financial statements to its clients. However, there were no requirements regarding moneys received or held by PMCs for or on account of their clients. It was suggested that the Administration should consider moving CSAs to Part 4 of the Bill to empower PMSA to promulgate requirements regarding moneys received or held by PMCs and/or PMPs for or on account of their clients (please refer to Annex A to LC Paper No. CB(2)1113/14-15).	The Administration has proposed to expand the scope of clause 5(1) to deal with matters such as licensee's duties. The issue will be addressed in the Codes of conduct (please refer to "Summary of matters that would be addressed in the subsidiary legislation / codes of conduct / administrative guidelines to be issued by the Property Management Services Authority").	Nil
Clause 18 - Authority's power to conduct investigation	In relation to Clause 18(2), it was pointed out that similar provisions were provided in other legislation such as the Personal Data (Privacy) Ordinance (Cap. 486) ("PDPO") (i.e. section 39 on "Restrictions on investigations initiated by complaints"). It was suggested that reference be made to section 39(1)(b) and (c) of PDPO to specify clearly that if a complaint was made anonymously or the complainant could not be identified or traced, PMSA might	The Administration advised that PMSA might refuse to investigate a complaint received under Clause 18(1)(b) if the complaint was trivial, frivolous, vexatious, not made in good faith, anonymous, repetitive, or the complainant could not be identified or traced. In the Administration' view, Clause 18(2) in the present form was sufficient to empower PMSA not to deal with such complaints (please refer to para.2 to LC Paper No.	Nil

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	<p>refuse to conduct an investigation to deal with a complaint received under Clause 18(1)(b). Section 39(2) of PDPO provided that the Privacy Commissioner for Personal Data might refuse to carry out or decide to terminate an investigation initiated by a complaint if he was of the opinion that a complaint was trivial, frivolous, vexatious or not made in good faith (please refer to Annex A to LC Paper No. CB(2)1361/14-15).</p>	<p>CB(2)1269/14-15(02)).</p>	
	<p>Clause 18(4) provided that PMSA must, as soon as practicable after it decided to conduct an investigation into any conduct of a licensee, notify the licensee in writing of the substance of the matter being investigated. In some members' views, it would be more desirable to specify a timeframe in Clause 18(4) within which PMSA should notify the licensee, instead of using the phrase "as soon as practicable" (please refer to Annex A to LC Paper No. CB(2)1361/14-15).</p>	<p>The Administration considered it desirable to use the phrase "as soon as practicable", instead of specifying an exact timeframe in the Bill, in order to retain flexibility. PMSA will specify in its service pledge the timeframe within which it must notify the licensee being investigated (please refer to para. 3 to LC Paper No. CB(2)1269/14-15(02)).</p>	<p>Nil</p>

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<p>Clauses 20 and 21</p> <p>- Appointment of investigators and Power to obtain information and documents</p>	<p>Members were concerned that PMSA might in writing appoint any person as an investigator for the purposes of conducting an investigation and the investigators so appointed would be conferred with the power to obtain information and documents relevant to the investigation. They enquired whether guidelines would be in place governing PMSA's appointment of investigators and the powers and obligations of investigators and the powers and obligations of investigators in carrying out their duties (please refer to LC Paper No. CB(2)1361/14-15).</p>	<p>The Administration advised that on the appointed of investigators and the investigator's power to obtain information and documents (Clauses 20 & 21), PMSA would issues administrative guidelines specifying issues such as the eligibility criteria of an investigator, the requirements on confidentiality in respect of the information and documents obtained by an investigator as well as avoidance of conflict of interests of investigators, and the PMSA's policy and procedure for retention and destruction of information obtained through investigation etc. (please refer to para.4 of LC Paper No. CB(2)1269/14-15(02)).</p> <p>The Administration considers that the PMSA could issue administrative guidelines on such issues at its own discretion.</p>	<p>Nil</p>
	<p>---</p>	<p>The Administration undertook to consider proposing CSAs to the following clauses -</p>	<p>To be proposed by the Administration</p>

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		<p>(a) references to "documents" or "document" in the Bill (including Clauses 21, 24 and 36, and section 22 of Schedule 3) should expressly include electronic documents or information recorded by electronics means;</p> <p>(b) Clause 21(5)(b) should require electronically stored information to be reproduced into a written form on paper; and</p> <p>(c) Clause 21(6)(a)(ii) should include a reference to a director or officer of a corporate, in order to cover the scenario that the person required to provide information was a corporate.</p> <p>(please refer to para.19(a) to (c)of Annex 1 to LC Paper No. CB(2)1761/13-14(04)).</p>	

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Clause 24 - Hearing before Authority	---	The Administration would consider proposing CSAs to Clause 24(1) to the effect that PMSA would be conferred with the power to receive and consider any material, whether by way of oral evidence, written statements, documents or other thing, even if the material would not be admissible in civil or criminal proceedings, so as to align with the power proposed to be conferred on an appeal tribunal under Clause 36(1)(d) (please refer to para.6(a) of LC Paper No. CB(2)1577/14-15 and para. 20(a) of Annex to LC Paper No. CB(2)2014/13-14(01)).	To be proposed by the Administration
Clause 25 - Disciplinary hearing	The Bills Committee requested the Administration to consider proposing amendments to the Bill to spell out clearly that the taking effect of an order made under Clause 25(1) or (2) (i.e Clause 25(4)) should not be affected by an application to revoke, vary or suspend such order made to PMSA under Clause 25(6) (please refer to para. 6(b) of LC Paper No.	The Administration undertook to consider moving CSAs to the Bill to specify that an order made under Clause 25(1) or (2) would continue to take effect according to Clause 25(4) even if an application made under Clause 25(6) to revoke, vary or suspend the order had been received by PMSA (please refer to para. 5 of LC Paper No. CB(2)1269/14-15(02) and	To be proposed by the Administration

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	CB(2)1577/14-15).	<p>para. 21 of Annex 1 to LC Paper No. CB(2)1761/13-14(04)).</p> <p>The Administration also advised that for the purposes of Clause 16(1)(a), "penalties" was intended to include a fine imposed as a disciplinary order under Clause 25(1)(b) as well as a "penalty" imposed for a failure to pay the levy under Clause 55(1)(a). For simplicity, the Administration would consider changing "fine" in Clause 25(1)(b) and the heading of Schedule 2 to "penalty" (please refer to para. 27(e) of Annex 1 to LC Paper No. CB(2)1761/13-14(04)).</p>	
<p>Clauses 30 and 31</p> <p>- Immunity and Self-incrimination</p>	<p>It was observed that the provisions in Part 5 regarding immunity and privilege against self-incrimination (Clauses 30 and 31) had not been replicated in Part 6.</p>	<p>The Administration undertook to consider proposing CSAs to the Bill to make clear the policy intent that a party, witness, counsel, solicitor and any other person appearing before an appeal tribunal under Part 6 should be protected by the same privileges and immunities as that person would have if the appeal were civil proceedings in the Court of First Instance. Necessary</p>	<p>To be proposed by the Administration</p>

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		<p>amendments would be made to the Bill to the effect that the provisions in Part 5 regarding immunity and privilege against self-incrimination (Clauses 30 and 31) would also apply to an appeal before the appeal tribunal (please refer to para. 4 of LC Paper No. CB(2)1612/14-15(02) and para. 22(a) of Annex 1 to LC Paper No. CB(2)1761/13-14(04)).</p>	
	---	<p>The Administration also undertook to consider proposing CSAs to the following clauses -</p> <p>(a) to include "the giving of evidence before the Authority or the disciplinary committee" under the definition of "specified act" in Clause 31(1) so that a person giving evidence before PMSA or the disciplinary committee under Part 5 should be entitled to the privilege against self-incrimination; and;</p> <p>(b) to amend Clause 31(4) to the</p>	To be proposed by the Administration

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		<p>effect that the exception in Clause 31(4)(a) would apply to an offence under Clause 28 as well as Clause 39 (e.g. if the person gave false or misleading evidence at both the disciplinary hearing and the appeal).</p> <p>(please refer to para. 6(c) of LC Paper No. CB(2)1577/14-15 and para. 22(b) of Annex to LC Paper No. CB(2)2014/13-14(01)).</p>	
	<p>The Administration was suggested to consider proposing amendments to the Bill to subsume Clause 31(4)(c) under Clause 31(4)(b), both of which related to the offence of perjury, so as to avoid redundancy (please refer to Annex A to LC Paper No. CB(2)1577/14-15).</p>	<p>The Administration would consider moving CSAs to the Bill so as to avoid Clauses 31(4)(b) and (c), both of which related to the offence of perjury, from being repetitive (please refer to para. 3(b) of LC Paper No. CB(2)1985/14-15 and para. 7 of LC Paper No. CB(2)1612/14-15(02)).</p>	<p>To be proposed by the Administration</p>
<p>Clause 36 - Hearing before appeal tribunal</p>	<p>---</p>	<p>The Administration advised that a party, witness, counsel, solicitor and any other person appearing before an appeal tribunal under Part 6 should be protected by the same privileges and</p>	<p>To be proposed by the Administration</p>

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		immunities as that person would have if the appeal were civil proceedings in the Court of First Instance. In order to make clear this policy intent, the Administration would consider moving CSAs to the Bill to enhance the clarity, readability and comprehensibility of Clause 36(1)(d) (please refer to Annex A to LC Paper No. CB(2)1577/14-15, and para. 8 of LC Paper No. CB(2)1612/14-15(02)).	
	In relation to Clause 36(3), there was a suggestion that the Administration should consider specifying clearly in the Bill that any party to the appeal might request the hearing, or any part of the hearing, be held in private and the chairperson of the appeal tribunal had the authority to decide whether such request should be acceded to after consulting the parties concerned (please refer to para.3(d) of LC Paper No. CB(2)1985/14-15).	As Clause 24(4) of the Bill had provisions similar to Clause 36(3), the Administration would consider making corresponding amendments to that part of the Bill (please refer to para. 8 of LC Paper No. CB(2)1612/14-15(02)).	To be proposed by the Administration
	There was a suggestion that in order to ensure procedural justice to all parties	The Administration advised that it was considered appropriate and	Nil

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	to the appeal, the Administration should raise the sanction presently proposed under Clause 36(6)(b) (i.e. giving the person concerned a public reprimand) for failure to comply with an order made under Clause 36(4) by a person who was not a licensee.	proportionate to order a public reprimand against a non-complying person who was not a licensee (please refer to para. 9-12 of LC Paper No. CB(2)1612/14-15(02)).	
Clauses 32 to 39	In members' view, the Administration should consider adding 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 clarify whether the meaning of "costs and expenses" in Clause 25(2) covered lawyer fees/legal costs incurred in the disciplinary proceedings and hearings (please refer to Annex A to LC Paper No. CB(2)1688/14-15).	The Administration agreed that Part 6 of the Bill should empower the appeal tribunal to make an order in respect of the costs and expenses incurred in relation to a hearing. It would consider moving CSAs to the Bill (please refer to para. 14 of LC Paper No. CB(2)1612/14-15(02)).	To be proposed by the Administration
Clause 46 - Disclosure of interests	Members were concerned that the existing definition of "disclosable interest" ("應披露利害關係") as	Response from the Administration awaited	To be advised by the Administration

Clause no.	Issues of concerns	The Administration's response	Draft Committee stage amendments ("CSAs") to the Bill
	<p>provided in Clause 46(1) had a rather narrow coverage and did not include the concept of "conflict of interest. The Administration was requested to review and consider whether amendments should be made to the Bill to address members' concerns on (i) whether the present drafting of the definition of "disclosable interest" reflected clearly the legislative intent that a member must disclose the nature of the interest at the meeting when actual or potential conflict of interest situations arose; and (ii) the need to refine the Chinese rendition "應披露利害關係" to "應披露利益關係" as the present drafting of the definition of "disclosable interests" seemed to cover only "material advantage" (please refer to para.6(a) and Annex to LC Paper No. CB(2)2053/14-15).</p>		
Schedule 1 - Property Management Services	Referring to Schedule 1 to the Bill which set out the categories of property management services, members noted that "General management services relating to a property" was one of the	The Administration pointed out that according to Clause 3 of the Bill, PMSA was empowered to prescribe the types of services under each category by regulation. The	Nil

Clause no.	Issues of concerns	The Administration's response	Draft Committee stage amendments ("CSAs") to the Bill
	seven defined categories of services. Some members considered that the definition was unclear and suggested the Administration to refine the wording so as to clearly specify the scope of services referred to (please refer to P.13 of Annex to LC Paper No. CB(2)2356/13-14).	Administration considered it appropriate to retain "General management services relating to a property" in Schedule 1, such that PMSA could prescribe under this category those types of services which could not be captured by other categories (please refer to LC Paper No. CB(2)22/14-15(01)).	
	Members were concerned whether professional bodies or Members' Offices would need to obtain the PMC licence to provide free advisory service or legal advice to owners' organizations.	The Administration would consider specifying in the Bill that only entities which provided property management services for monetary or other financial rewards would be required to obtain the PMC licence (please refer to para. 18 of LC Paper No. CB(2)556/14-15(02)).	To be proposed by the Administration
Schedule 3 - Property Management Services Authority	In relation to section 3 "Terms of appointment" of Schedule 3, members were advised that the policy intent was to empower the Chief Executive to determine the provision of nominal remuneration or allowances to members of PMSA. Members were concerned about the use of the wording	The Administration would consider making reference to other legislation, including the Mental Health Ordinance (Cap. 136), and amending section 3 of Schedule 3 to the Bill by replacing the term "remuneration" with some other more appropriate wording such as "fees" (please refer para. 10 of LC	To be proposed by the Administration

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	"remuneration" (please refer to para.3(a) of LC Paper No. CB(2)2052/14-15).	Paper No. CB(2)1788/14-15(02)).	
	In relation to section 6 "Acting Chairperson" of Schedule 3, members considered that even if the Chairperson was temporarily out of town, he/she might 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 (please refer to para.3(b) of LC Paper No. CB(2)2052/14-15).	The Administration would, in consultation with DoJ, propose CSAs to the Bill to empower the Chairperson of PMSA to determine, having regard to the specific circumstances, whether it was necessary to arrange an Acting Chairperson to act in his/her place when he/her was temporarily absent from Hong Kong (please refer para. 12 of LC Paper No. CB(2)1788/14-15(02)).	To be proposed by the Administration
	Concern was raised about the safeguards that PMSA would put in place to ensure that the confidentiality of its meetings would not be compromised as a result of individual members participating by electronic means as mentioned in section 9(2).	The Administration would consider moving CSAs with reference to section 10(5)(c) of the Communications Authority Ordinance (Cap. 616) ("CAO") to ensure that the confidentiality of PMSA's meetings would not be compromised as a result of individual members participating by electronic means as mentioned in section 9(2) (please refer to para. 27(a) of Annex 1 to LC Paper No.	To be proposed by the Administration

Clause no.	Issues of concerns	The Administration's response	Draft Committee stage amendments ("CSAs") to the Bill
		CB(2)1761/13-14(04)).	
	---	<p>The Administration would consider proposing CSAs to the Bill to provide that the proposed resolution under section 13(1) of Schedule 3 to the Bill might be in the form of one or more documents, each in the same form and signed by one or more members of PMSA (please refer to para. 27(b) of Annex 1 to LC Paper No. CB(2)1761/13-14(04)).</p> <p>In relation to the proposed section 13(1)(c) of Schedule 3 to the Bill, the Administration would consider moving CSAs with reference to section 12(3) of CAO to provide that a written resolution assented to under section 13(1)(c) would become void if a meeting was subsequently requested within the 14-day period under section 13(4) (please refer to para. 27(d) of Annex 1 to LC Paper No. CB(2)1761/13-14(04)).</p>	To be proposed by the Administration

Clause no.	Issues of concerns	The Administration's response	Draft Committee stage amendments ("CSAs") to the Bill
	---	In relation to the proposed section 20(2) of Schedule 3 to the Bill, the Administration agreed that it was necessary for the annual report to contain an outline of all disciplinary hearings conducted under Clause 23. The Administration would consider moving CSAs to section 20(2) of Schedule 3 (please refer to para. 27(g) of Annex 1 to LC Paper No. CB(2)1761/13-14(04)).	To be proposed by the Administration
	---	In relation to the proposed section 22(3), the Administration advised that the Director of Audit's report was intended to be laid on the table of the Legislative Council ("LegCo") and the President of LegCo would cause the report to be tabled. The Administration would consider moving CSAs to section 22(3) with reference to other ordinances to make this clear (please refer to para. 27(i) of Annex 1 to LC Paper No. CB(2)1761/13-14(04)).	To be proposed by the Administration

Clause no.	Issues of concerns	The Administration's response	Draft Committee stage amendments ("CSAs") to the Bill
	---	For the avoidance of doubt, the Administration would move CSAs to the Bill to specify clearly that section 23(9) of Schedule 3 was also subject to Clause 46(9), which sought to regulate disclosure of interests at a meeting by the member of a committee of PMSA and the procedure of such meeting relating to disclosure of interests by members of the committee (please refer to para. 3(a) of LC Paper No. CB(2)2053/14-15 and para. 2 of LC Paper No. CB(2)1848/14-15(02)).	To be proposed by the Administration
Schedule 4 - Transitional Provisions	Upon the Administration's advice that the phrase "disciplinary offence" in section 2(4)(c) meant a disciplinary offence as defined under Clause 4 of the Bill, members requested the Administration to consider the need to specify clearly the meaning of "disciplinary offence" in the proposed section 2(4)(c) (please refer to Annex A to LC Paper No. CB(2)2052/14-15).	Since it had already been defined in section 4 of the Bill, the Administration considered that it was not necessary to include provision defining "disciplinary offence" in section 2(4)(c) of Schedule 4 again (please refer to para. 10 of LC Paper CB(2)1848/14-15(02)).	Nil
	---	The Administration would consider moving CSAs to amend section 2(7) of	To be proposed by the Administration

Clause no.	Issues of concerns	The Administration's response	Draft Committee stage amendments ("CSAs") to the Bill
		Schedule 4 to make it clear that PMSA's disciplinary powers under Part 5 and the defence under Clause 61 should also apply to the holders of provisional PMP licences issued under Schedule 4 (please refer to para. 5(b) of LC Paper No. CB(2)2052/14-15).	

Council Business Division 2
Legislative Council Secretariat
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