

**For discussion on  
27 March 2017**

**LEGISLATIVE COUNCIL  
PANEL ON HOME AFFAIRS**

**Review of the Building Management Ordinance (Cap. 344) –  
Further Legislative Proposals and Administrative Measures**

**PURPOSE**

This paper seeks Members' views on the Government's further legislative proposals to update the Building Management Ordinance (Cap. 344) (BMO) and the related administrative measures.

**BACKGROUND**

2. The BMO provides a legal framework for owners to form and run owners' corporations (OCs) to facilitate their discharge of responsibilities in relation to building management. The BMO stipulates, among other things, the formation, powers, rules of operation and monitoring mechanism of OCs. To ensure that the BMO keeps pace with the societal changes, the "Review Committee on the Building Management Ordinance" (the Review Committee), comprising members from relevant professional sectors and with extensive knowledge in property management, was established in 2011 to conduct a comprehensive review of the BMO. Based on the Review Committee's recommendations, the Home Affairs Department (HAD) conducted a public consultation from November 2014 to February 2015 on a package of proposed amendments to the BMO (at **Annex A**) with a view to addressing public concerns on building management, particularly the disputes arising from large-scale maintenance projects and the use of proxy instruments at OC meetings.

3. At the meeting on 17 May 2016, Members were briefed on the outcome of the public consultation. Taking into consideration of the public views received, we proposed to take forward all, except three<sup>1</sup>, of the proposals set out in the public consultation document. At that meeting, Members raised a number of issues and suggestions which primarily focused on how best to define “large-scale maintenance projects” and the lack of proposed criminal sanctions to deter improprieties of OCs. Having studied Members’ concerns and explored other possible options, we would like to propose 34 further legislative and administrative measures, on top of those proposed on 17 May 2016, for Members’ consideration. A summary of the proposals is at **Annex B**. A consolidated table, setting out the three sets of proposals in (i) the Consultation Paper on BMO Review, (ii) the Paper for the Legislative Council Panel on Home Affairs (HA Panel) on 17 May 2016 and (iii) the latest proposals, is at **Annex C**.

## **PROPOSED AMENDMENTS TO THE BMO**

### **I. Procurement and Large-scale Maintenance Projects**

4. As large-scale building maintenance projects have been a major cause of concerns and disputes in recent years, we put forward in the public consultation document various measures to enhance the relevant provisions in the BMO regarding OC meetings, procurement arrangement and appointment of proxy, with a view to ensuring that the decisions to conduct large-scale maintenance projects are made after detailed discussion and sufficiently wide participation by owners.

#### **(a) *Quorum of Meeting***

5. Insofar as quorum is concerned, paragraph 5(1)(b) of Schedule 3 to the BMO provides that the quorum at a meeting of the OC

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<sup>1</sup> The three proposals that would not be further pursued are marked with \* at **Annexes A and C**. These include (i) lowering the percentage of shares from 30% to 20% in aggregate required for the formation of OCs under section 3 of the BMO; (ii) lowering the thresholds under sections 3A and 4 of the BMO to say 10% and 5% respectively; and (iii) lowering the threshold for terminating the appointment of DMC managers.

Also, two proposals are to be taken forward partially. The parts that would not be further pursued are also marked with \* at **Annexes A and C**. These include (i) where the management committee (MC) fails to appoint any member to convene the general meeting, those owners who have requested to convene the general meeting may nominate a representative among themselves to convene the general meeting; and (ii) increasing the number of tiers of ceiling on the DMC manager’s remuneration.

shall be 10% of the owners<sup>2</sup>. We proposed in 2016 to raise the **quorum** of the general meeting for the passage of resolutions on “large-scale maintenance projects” from 10% to 20% of the owners, with a view to encouraging owners’ participation in making such important decisions. In view of public support for this proposal, we will proceed with this legislative amendment.

6. This notwithstanding, there are still concerns about the appointment of a large number of proxies and the potential manipulation of proxies in connection with large scale maintenance projects. To avoid the OC taking important decisions on large-scale maintenance projects when a small number of owners holding a large number of proxies are present, we **further propose** that, of the 20% of owners required for forming the quorum, at least **10% of the owners** have to attend the OC meeting in person when resolutions on large-scale maintenance projects are passed.

**(b) *Percentage of Votes at OC Meetings for Passage of Resolutions***

7. Currently, paragraph 3(3) of Schedule 3 to the BMO provides, amongst others, that all matters arising at a meeting of the OC at which a quorum is present shall be decided by a majority of the votes of owners voting either personally or by proxy. Noting that our original proposal of raising the required percentage of votes from the existing over 50% to, say 75%, to pass resolutions on “large-scale maintenance projects” would render it very difficult to secure sufficient votes, and as a result most maintenance works (including works required by statutory orders) might not be able to commence, we proposed in 2016 that the required percentage of votes should be maintained at over 50%.

8. We have further considered tightening the passage of resolutions for large scale maintenance projects at OC meetings by, for example, stipulating the minimum percentage of non-proxy votes required for the passage of the resolution, or requiring the resolution to satisfy an additional requirement of being passed by a majority of the votes of owners voting personally at the OC meeting. However, under both options, in the event of a low turn-out rate at the OC meeting, a minority of owners present at the OC meeting can veto the projects and this may be criticised as unfair to the absentee owners. Moreover, both options would be very difficult and complicated to operate in practice.

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<sup>2</sup> The enumeration of owners is specified in Schedule 11 to the BMO.

(c) *Definition of Large-scale Maintenance Projects*

9. Taking into account the actual circumstances of residential developments of different scales, we proposed in 2016 to consider introducing a two-tier system in respect of the definition of “large-scale maintenance projects”. For example –

- (i) where the building contains more than 100 flats, a “large-scale maintenance project” shall be defined as any procurement with a cost equivalent to or exceeding 40% of the annual budget of the OC; and
- (ii) where the building contains not more than 100 flats, a “large-scale maintenance project” shall be defined as any procurement with a cost equivalent to or exceeding \$1 million or twice the annual budget of the OC, whichever is the lesser.

10. As the annual budgets of OCs is only an estimate and there are risks that it may be artificially inflated to allow for a higher contract ceiling to circumvent the definition of large-scale maintenance projects, we **further propose** to refine the proposal above by linking the definition of “large-scale maintenance projects” with the **average audited annual expenditure of the OC for the past three years** immediately before the maintenance proposal is put to the OC for discussion. As the audited accounts reflect the past and actual expenditure and a three-year average would better reflect the expenditure pattern of the OC, the additional measure would help prevent artificial inflation of the annual budget.

11. Taking into account Members’ views that some housing estates might have a large number of flats (over and above 500), we **propose** to add one more tier and set an absolute amount for each tier as follows –

- (i) Tier 1 - where the building contains more than 500 flats (currently constituting around 5% of all OCs), a “large-scale maintenance project” would be defined as any procurement at a cost of \$4 million or above, or 40% of the average audited annual expenditure of the OC for the past three years immediately before the maintenance proposal, whichever is the lesser;
- (ii) Tier 2 - where the building contains 101 to 500 flats (currently constituting around 15% of all OCs), a “large-scale maintenance project” would be defined as any procurement at

a cost of \$2 million or above, or 70% of the average audited annual expenditure of the OC for the past three years immediately before the maintenance proposal, whichever is the lesser; and

- (iii) Tier 3 - where the building contains not more than 100 flats (currently constituting around 80% of all OCs), a “large-scale maintenance project” would be defined as any procurement at a cost of \$1 million or more, or twice the average audited annual expenditure of the OC for the past three years immediately before the maintenance proposal, whichever is the lesser.

**(d) *Procurement of Other Supplies, Goods and Services***

12. Currently, the procurement of supplies, goods and services other than large-scale maintenance projects is regulated by section 20A of and paragraph 5 of Schedule 7 to the BMO. These provisions also use “the annual budget of the OC” as the benchmark. Following the proposal in paragraph 10 above, we **propose** similar amendments to these provisions, to make reference to the “audited annual expenditure of the OC” as the benchmark instead.

**(e) *Declaration of DMC/Property Managers on Conflict of Interest***

13. Under the existing “Code of Practice on Procurement of Supplies, Goods and Services” (CoP on Procurement), any agent or employee of the OC is prohibited from soliciting or accepting any advantage in connection with his duty unless with the permission of the OC. The agent or employee shall also declare any conflict of interest relating to his duties. In view of the complaints and suspicion of collusion between the DMC Manager/Property Management Company and the MC to the disadvantage of other owners, particularly in renovation works, we **propose** to specify the declaration to cover any business, pecuniary or any other relationship<sup>3</sup> between the DMC Manager/Property Management Company and any of the MC members as well as the two with any tenderers/consultants/professional services providers for the OC. We **further propose** to make such declaration mandatory under BMO.

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<sup>3</sup> This refers to any relationship which in the eyes of the objective and reasonable member of the general public may influence the judgment of the person(s) concerned.

## II. Proxy Instruments

14. We proposed in 2016 a series of amendments to the BMO to improve the current proxy arrangements and to prevent abuses (items 8 to 13 under the column of “Proposals in the HA Panel Paper in 2016” in Annex C refer). To make any manipulation of proxies more difficult, we **further propose** to implement the following requirements –

- (i) owners may include their voting instructions in the proxy instruments;
- (ii) the proxy instrument should be countersigned by the proxy, so that the proxy would know the percentage of owners appointing him and such percentage should not exceed 5% of the owners;
- (iii) holders of the proxies should make a declaration that the proxies they hold are honestly procured from the respective owners concerned and are true and accurate representation of the said owners’ voting instruction;
- (iv) the MC Secretary should disclose the name of any person holding proxies of 5% of the owners (and any person, whether attending in person or appointing proxy, holding 5% or more of the aggregate shares) on a list to be displayed pursuant to paragraph 4(5)(a)(ii) of Schedule 3 to the BMO; and
- (v) the OC should keep the record of the proxies and the declaration in item (iii) above for at least three years<sup>4</sup>.

15. It should be noted that under the existing section 36 of the BMO<sup>5</sup>, a proxy holder who fabricate proxies are criminally liable for false declaration.

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<sup>4</sup> Currently, paragraph 4(6) of Schedule 3 to the BMO requires that the MC shall keep all the instruments for the appointment of proxies that have been lodged with the MC Secretary for a period of at least 12 months after the conclusion of the meeting.

<sup>5</sup> Section 36 of the BMO provides, amongst others, that any person who, in any form required by the BMO, makes any statement or furnishes any information which he knows, or reasonably ought to know, to be false in a material particular, shall be guilty of an offence and shall be liable on conviction to a fine at level 3 and to imprisonment for 6 months.

### **III. Safekeeping and Circulation of Records**

#### **(a) *Separate Records for Votes in Person and by Proxy***

16. Paragraph 3(3) of Schedule 3 to the BMO provides, amongst others, that all matters arising at an OC meeting at which a quorum is present shall be decided by a majority of the votes of the owners voting either personally or by proxy. There is no requirement on keeping separate records of votes cast in person and those by proxy. To enhance transparency, we **propose** that the votes cast by owners personally and those by proxy should be recorded separately in the minutes of the OC general meeting.

#### **(b) *Keeping and Circulation of Minutes***

17. Currently, paragraph 6(3) of Schedule 3 to the BMO provides that the MC Secretary shall display the minutes in a prominent place in the building within 28 days of the date of the general meeting, and cause the minutes to remain so displayed for at least 7 consecutive days. Paragraph 6A(1) requires that the minutes so certified shall be kept by the MC for such period, being not less than 6 years, as the OC may determine. Similar requirements in respect of the minutes of an MC meeting are stipulated under paragraphs 10 and 10A of Schedule 2 to the BMO.

18. To ensure that owners are duly informed of major items of expenses, we **propose** that in addition to the existing requirements, the minutes of MC and OC meetings at which large-scale maintenance projects (proposed definition in paragraph 11 above) are discussed, should be delivered to the letterboxes of the building owners, or be emailed to the email addresses of the owners (whichever applicable) within 28 days of the date of the meeting.

### **IV. Accounts and Financial Statements**

19. The current requirements on circulation, safekeeping and inspection of financial statements and accounts of OC are set out in section 27 and Schedule 6 to the BMO. Specifically, section 27(1A) of the BMO provides that the financial statements of OCs in respect of a building which contains not more than 50 flats need not be audited. As we have proposed to link the definition of “large-scale maintenance projects” with the average audited annual expenditure of the OC, we **propose** that the financial statements of OCs, regardless of the number of

flats of the buildings, shall be audited.

20. Section 27(1) and (1A) of the BMO requires that for an OC of a building containing more than 50 flats, the financial statement shall be audited every 12 months, and the financial statements and the accountant's report shall be laid before the OC at the annual general meeting of the OC. We have come across situations where OCs may have genuine problems in complying with these requirements, e.g. the quorum requirement for an OC meeting is not met and hence no OC general meeting can be held, etc. To enable the owners to have access to the audited accounts once available without waiting for the convening of the annual general meeting, we **propose** to add a requirement for the financial statements and the accountant's report to be posted in a conspicuous place of the building as and when such information is ready.

## **V. Non-performance of MCs and Powers of the Authority**

### **(a) *Convening a General Meeting of the OC***

21. Currently, an OC will not be able to convene an OC meeting, if the MC Chairman resigns but (i) the MC refuses to fill the vacancy in accordance with the by-election mechanism stipulated in paragraph 6 of Schedule 2 to the BMO, or (ii) the MC fails to appoint any member to convene the general meeting. In such circumstances, the owners or the Authority (i.e. Secretary for Home Affairs (SHA)) can apply to the Lands Tribunal for appointment of an administrator in accordance with section 31 of the BMO to dissolve and re-elect the MC.

22. In view of the difficulty for owners to invoke section 30 (paragraph 5(1)(a) of Schedule 3 to the BMO requires that the quorum shall be 20% of the owners) and the time taken to apply to the Lands Tribunal in accordance with section 31, we **propose** to amend the BMO to empower that the Authority may under Section 31, at the request of not less than 5% of the owners, dissolve the non-performing MC and appoint an administrator to (i) chair an OC meeting to re-elect an MC, and (ii) look after the operation of the OC before a new MC is elected by the owners under BMO.

**(b) *Management Vacuum***

23. Under section 40B of the BMO, where a building has an MC, but it appears to the Authority that, (i) no person is managing that building, (ii) the MC has failed substantially to perform the duties of an OC under section 18, and (iii) as a result, there is a danger or risk of danger to the occupiers or owners of the building, the Authority may order the MC to appoint a building management agent for the purposes of managing that building. Given the very high thresholds in (iii), section 40B has never been invoked. Indeed, in cases where there is a danger or risk of danger to life and limbs, other relevant authorities such as the building, fire and health authorities would have stepped in and taken enforcement actions.

24. On the other hand, the high thresholds of section 40B render it very difficult to promptly deal with a hiatus in management of the building and to provide the necessary cleansing and garbage collection services, etc. We therefore **propose** that section 40B should be expanded to empower the Authority under BMO to deal with management impasse such as those described above, by removing the requirement of “danger or risk of danger to the occupiers or owners of the building”, so as to avoid a hiatus in the day-to-day management of the building. Similar to section 31(2) of the BMO<sup>6</sup>, we **propose** that if the Authority orders to appoint a building management agent, he may direct that the building management agent shall hold office for a fixed or indefinite period on such terms and conditions as to remuneration or otherwise as he thinks fit, and the remuneration and expenses of the administrator shall be deemed to be part of the expenses of management of the building under the BMO.

**VI. Criminal Sanctions**

**(a) *Proposed New Penalty Provisions***

25. At the meeting on 17 May 2016, some Members suggested that more criminal sanctions, to be enforced by the Authority, should be provided for in the BMO to deter people, including MC members, from violating the BMO. Members also noted the concerns that as owners served as MC members on a voluntary basis, criminal sanctions would discourage owners from serving on the MC.

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<sup>6</sup> Section 31(2) of the BMO provides that the Lands Tribunal may direct that an administrator appointed under subsection (1) shall hold office for an indefinite period or for a fixed period on such terms and conditions as to remuneration or otherwise as it thinks fit, and the remuneration and expenses of the administrator shall be deemed to be part of the expenses of management of the building under the BMO.

26. Under the existing BMO, there are a number of provisions that impose criminal liability, e.g. provision of false information or document under section 36, failure to prepare financial statements to be laid before the OC within the specified timeframe under section 27(3), and failure to procure third party risks insurance under section 28(2), etc. In view of Members' suggestions, we have examined the feasibility of adding criminal sanctions in the BMO while being cautious of any adverse impact on the motivation of owners to participate in building management work and take up OC duties. We **propose** the following –

- (i) amending section 27(3) of BMO to extend the criminal liability (currently applicable to MC members) to the DMC Manager/Property Management Company in case of failure to **produce annual audited accounts** or audited accounts as required by contract. We have come across many cases where the DMC Manager/Property Management Company<sup>7</sup> are responsible for the preparation of the accounts. The annual expenditure of such cases is usually substantial and hence they warrant a tighter control. Such amendment would be crucial to deter out-going DMC Manager/Property Management Company from not handing over the financial records. We would also put forward this proposal to the Property Management Services Authority as a requirement under the code of conduct for regulating the operation of the property management companies;
- (ii) amending Schedules 2 and 3 to the BMO to impose a criminal liability on DMC Manager/Property Management Company/MC Members for non-compliance with the requirements for **proper safekeeping and circulation of minutes of MC/OC meetings**; and
- (iii) stipulating in the BMO a criminal liability on DMC Manager/Property Management Company/MC Members for

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<sup>7</sup> Paragraph 2(6) of Schedule 7 to the BMO provides that, if there is an OC and the OC decides, by a resolution of the owners, that any income and expenditure account and balance sheet should be audited, the manager shall without delay arrange for such an audit to be carried out and (a) permit any owner, at any reasonable time, to inspect the audited income and expenditure account and balance sheet and the report and the report made by the accountant or auditor in respect of the income and expenditure account and balance sheet; and (b) on payment of a reasonable copying charge, supply any owner with a copy of the audited income and expenditure account and balance sheet, or the report made by the accountant or auditor in respect of the income and expenditure account and balance sheet, or both, as requested by the owner.

non-compliance with the requirements for **safekeeping of tender documents**<sup>8</sup> when these are made mandatory.

27. As the contravention of paragraph 26(i) is similar in nature to that under the existing section 27(3), we **propose** a similar penalty level, i.e. an contravention should be an offence and the party concerned shall be liable on conviction to a fine at level 5, unless he proves that (i) the offence was committed without his consent or connivance; and (ii) he has exercised all such due diligence to prevent the commission of the offence as he ought to have exercised in the circumstances. As for contravention of paragraphs 26(ii) and (iii), we consider that the nature is less severe and hence **propose** that in case of contravention, the party concerned shall be liable on conviction to a fine at level 2, and that the same defence clause would be applicable.

28. There are cases where OCs have genuine difficulties in complying with some of the requirements, e.g. (i) where there is a change of property management company and hence a longer time is required to prepare the audited accounts, (ii) the quorum requirement for an OC meeting is not met and hence no OC general meeting can be held, etc. We have so far adopted an advisory approach to remind the OCs concerned the importance to comply with the relevant statutory requirements. In most cases, after receiving reminders and warnings, the OCs concerned would be able to comply with the requirements, and hence the penalty provisions have not been invoked. We **propose** to amend section 27 of the BMO and other penalty provisions to better reflect the current practice, by empowering the Authority to **issue a warning** to specify an extended date for compliance taking into account any reasonable excuse and the circumstances of each case, before invoking the penalty provisions.

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<sup>8</sup> We last proposed incorporating the following requirements, among others, in respect of tender documents under the CoP on Procurement mandatory under the BMO –

- (i) the MC shall maintain and keep in safe custody for such period, being not less than six years, as the OC may determine, all tender documents, copies of contracts, accounts and invoices and any other documents in the possession of the OC and relating to the procurement of supplies, goods and services (paragraph 17 of CoP on Procurement);
- (ii) the MC shall permit the Authority, the tenants' representative, an owner, a registered mortgagee or any other person authorised in writing by an owner or a registered mortgagee to inspect the above documents at any reasonable time (paragraph 18 of CoP on Procurement); and
- (iii) the above documents shall contain sufficient information to enable the person doing inspection to calculate the financial liability (including any future financial liability) of the OC at the time of inspection (paragraph 19 of CoP on Procurement).

**(b) Time Limit on Prosecution**

29. As advised by the Department of Justice (DoJ), the prosecutions for offences under the BMO are subject to the 6 months' time bar provided for under section 26 of the Magistrates Ordinance (Cap. 227)<sup>9</sup>. In practice, there will not be sufficient time to initiate prosecution within 6 months from the time when the matter of such complaint or information respectively arose.

30. To allow a reasonable time for the Authority to initiate prosecution, we **propose** to amend the BMO, to the effect that any prosecution under the BMO shall be commenced (i) within 24 months of the commission of the offence; or (ii) within 24 months of the offence being discovered by or coming to the notice of the Authority, whichever is the later.

**VII. Other Technical Amendments**

31. Other proposed technical amendments to the BMO are set out at **Annex D**.

**VIII. Measures Pending Amendments to the BMO**

**(A) Codes of Practice**

32. Currently, pursuant to section 44 of the BMO, the Authority may issue Codes of Practice (CoP) to give guidance and direction as to the standards and practices of management, among others, to be observed and followed by an OC. While a failure to observe any CoP per se is not liable to criminal proceedings, any such failure may, in any proceedings whether civil or criminal including proceedings for an offence under the BMO, be relied upon as tending to establish or to negative any liability which is in question in those proceedings.

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<sup>9</sup> Section 26 of the Magistrates Ordinance (Cap. 227) provides that in any case of an offence, other than an indictable offence, where no time is limited by any enactment for making any complaint or laying any information in respect of such offence, such complaint shall be made or such information laid within 6 months from the time when the matter of such complaint or information respectively arose.

33. Subject to Members' views on the above proposals to amend the BMO, given the time required for as the legislative exercise, we **propose** to include those proposals, which are not in conflict with the BMO, in the CoP as best practices.

### **(B) Checklist on Procedural Propriety**

34. In addition, we **propose** a new requirement for the MC Chairman and the DMC manager to sign a checklist confirming that the procedure for convening a meeting and the proper disclosure of the information on proxies for the OC meetings have been complied with. There should be explanation for any deviation from the requirements in the guidelines in the checklist for the sake of transparency and accountability. The checklist would be implemented through the CoP pending the legislative amendment. It would also serve as a useful reminder and good evidence to ensure procedural propriety. A draft model checklist is at **Annex E**.

## **IX. Related Administrative Support Measures**

### **(A) Building Management Dispute Resolution Service (BMDRS)**

35. In response to the concerns about the cost and time taken to resolve any building management dispute through legal proceedings at the Lands Tribunal, and to facilitate the resolution of some building management disputes, we **propose** to launch a new support service, the Building Management Dispute Resolution Service (BMDRS).

36. The new BMDRS will be run as a pilot scheme for two years. Specifically –

- (a) the BMDRS will assume a “quasi-adjudication” function in offering neutral, authoritative, written pre-litigation advice<sup>10</sup> to case applicant(s);
- (b) the BMDRS applicants may include either single party or both disputing parties (unlike mediation where the presence of both disputing parties is necessary); and

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<sup>10</sup> A disclaimer that HAD will not be responsible for any liability howsoever caused to any person by the use of the written evaluative advice.

- (c) a retired Judge (with experience in land and building management related matters) will be appointed as the Chairman to enhance the authority of the BMDRS.

Chaired by a retired judge, the BMDRS would, in effect, be similar to a “pre-trial” of the BM case. This would hopefully help facilitate the resolution of dispute without going through a costly legal proceeding by providing an authoritative advice in which owners/OC would have trust and confidence.

### **(B) Measures to Prevent Large-scale Maintenance Projects from Bid-rigging**

37. In response to concerns about bid rigging for building management projects, the Urban Renewal Authority (URA) introduced the Smart Tender Scheme last May. In view of the popularity of the scheme and to widen its eligibility to flats with a higher rateable value and lower building age, the two original criteria<sup>11</sup> under the scheme has been removed. Moreover, the scheme is now open to all interested OCs after the lifting of the annual quota of 50 buildings. This would mean that more buildings and owners would have the option of procuring URA professional support in tendering their maintenance projects.

### **(C) Pre-meeting Advisory Service for OCs**

38. In order to provide enhanced support services to MCs and OCs, we **propose** to launch the “Pre-Meeting Advisory Service for OCs” to target at (i) newly formed OCs, (ii) new term OCs, and (iii) OC general meetings with expected dispute items (e.g. maintenance). Under the new Service, members of the District Building Management Liaison Teams (DBMLTs)<sup>12</sup> in all 18 Districts will advise MC members on the conduct of

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<sup>11</sup> Previously, buildings were required to meet the following criteria for joining the pilot scheme –

- (i) private residential buildings aged 30 years or above; and
- (ii) with an average rateable value of residential unit not exceeding \$300,000 per annum in urban areas and \$160,000 per annum in the New Territories.

<sup>12</sup> At the district level, DBMLTs will –

- (i) visit owners of private buildings in the district to promote the good practices of building management;
- (ii) advise owners on the procedures of the formation of OC;
- (iii) issue an exemption certificate to the convenor of an owners' meeting for obtaining a free copy of record of owners of the building from the Land Registry for the purpose of convening a meeting to form an OC. Each building will only be issued with the exemption certificate once. Subsequent search of record of owners for whatever reason shall be conducted at owners' own cost.
- (iv) process applications made to the Secretary for Home Affairs for an order to convene a meeting of owners under section 3A of the BMO;

MC and OC meetings. They will meet with MC members / owners before the issuance of the Notice of Meeting to go through the proposed checklist on procedural propriety and provide advice on the procedural aspects of the meetings. Where necessary, the DBMLT members will introduce to MC members / owners various voluntary professional advisory services available and recommend them to consult relevant professionals to clear the doubts, if any, before the OC meetings.

39. The proposed measure could better meet the expectations of owners and OCs when compared with the current practice of HAD staff in attendance of the meeting but could not provide professional advice.

#### **(D) Engaging Owners in Building Management Duties and Other Building Management Initiatives**

40. Building management covers a wide range of issues, apart from maintenance. It is most important for owners to involve themselves in the day-to-day monitoring of their building's management. We have enhanced public education and publicity to encourage more owners to take part in the discussion and keep informed of the discussion at the MC. Apart from advertising on the importance of owners' participation at MC/OC meetings, we would organise more training and seminars on various building management issues. Details of other support measures and building management initiatives, including (i) Building Management Professional Advisory Service Scheme Phase 3, (ii) Free Mediation Service for Building Management, (iii) Free Legal Advice Service on Building Management and (iv) Panel of Advisors on Building Management Disputes, are set out in Annex F.

#### **WAY FORWARD**

41. For the proposals mentioned in paragraphs 4 to 31 above (see Annex B and Annex D), and those presented at the HA Panel meeting on 17 May 2016 at Annex A, we will consult the DoJ on the legal aspects for

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- (v) organise training courses, seminars, talks and workshops on building management for MC members;
  - (vi) organise educational and publicity activities, e.g. arranging roving exhibitions on building management and producing a series of publicity materials on building management, maintenance and insurance to promote proper and effective building management;
  - (vii) handle enquiries and complaints relating to building management;
  - (viii) assist law enforcement departments in enforcing building maintenance and fire safety improvement; and
  - (ix) help resolve disputes between owners, OCs and management companies, and arrange the provision of voluntary professional mediation service, if there is a need.

implementation, and work with them on the draft amendment bill to be introduced to the Legislative Council and consult the relevant stakeholders. As mentioned in paragraph 33 above, given the time required to amend the BMO, we will include those proposals that are not in conflict with the existing BMO into the CoP issued under section 44 of the BMO, so as to respond to the public concerns on the arrangements for procurement and proxy instruments by OCs as soon as practicable. We will encourage OCs to adopt those proposals as far as practicable.

### **ADVICE SOUGHT**

42. Members are invited to comment on the proposals set out in this paper.

**Home Affairs Bureau  
Home Affairs Department  
March 2017**

**Summary of Proposals in Consultation Paper on  
Review of the Building Management Ordinance (Cap. 344) (BMO)  
(November 2014 – February 2015)**

**(I) Bid-rigging and Disputes relating to Large-scale Maintenance Projects**

To ensure that the owners' corporation (OC) meeting at which voting of resolutions on large-scale maintenance projects will take place will be attended by a significant proportion of owners, the following legislative proposals may be considered –

**(a) *Quorum and Percentage of Votes***

1. (i) The quorum of the meeting be raised from 10% to, say 20%, of the total number of owners; or
- (ii) The required percentage of shares of votes for the passage of the resolution be raised from 50% to, say 75%, of the shares of votes at the meeting.

**(b) *Definition of “Large-Scale Maintenance Projects”***

2. To consider how “large-scale maintenance projects” should be defined for the purpose of BMO. Options include:
  - (i) projects exceeding a certain percentage (or percentages) of the total annual budget of the OC, or
  - (ii) set the threshold as the amount the owner(s) of each flat will have to contribute to the project.

**(c) *Notice of Meeting***

3. Should be given to each owner at least 21 days before the holding of the meeting.
4. Should carry a conspicuous “alert” that any decision(s) to be taken at the OC meeting may result in the contribution of funds exceeding a certain specified amount by each owner.

\* Proposals that would not be further pursued are marked with “\*”.

**(d) *Tender Process***

5. To stipulate in the BMO additional requirements on the tender process, e.g. displaying a copy of the invitation to tender at a prominent place of the building, allowing inspection of the tender documents by owners, etc.

**(II) Convening of an OC General Meeting at the Request of Owners**

To ensure that OC meetings can be convened expeditiously, the BMO can be amended to –

6. Require the management committee (MC) Chairman to place the discussion item requested by the owners on a high priority on the agenda; and
7. When the office of the MC Chairman is vacant, the Vice-chairman should convene the general meeting in place of the Chairman –
  - (a) where no Vice-chairman is elected, the MC should appoint one of its members to convene the general meeting; and
  - (b) \* where the MC fails to appoint any member to convene the general meeting, those owners who have requested to convene the general meeting may nominate a representative among themselves to convene the general meeting.

**(III) Counterfeit Proxy Instruments and Improper Practices**

To minimise improper or abusive use of proxies at OC meetings, the following legislative and administrative proposals can be considered –

**(a) *Collection of Proxy Instruments***

8. To require the MC Secretary/convenor to state clearly in the notice of meeting as to the exact location of the proxy collection boxes and the timing for opening the boxes to inspect and count the proxy.
9. The proxy collection boxes should be double-locked and placed in a prominent location of the building.

\* Proposals that would not be further pursued are marked with “\*”.

10. The two keys of each box should be held by the MC Secretary / convenor and a third party (e.g., a mediator, an auditor or a lawyer) respectively.
11. The boxes should be opened by the key holders in the presence of witnesses.
12. Only the original copy of the proxy forms will be accepted.
13. The date of the OC meeting should be printed on each proxy form.
14. To provide the MC Secretary/convenor with an additional means of acknowledging receipt of the proxy instrument by passing the receipts to the owners in person.

**(b) *Verification of Proxy Instruments***

15. The list of flats with proxy instruments lodged should be displayed in a prominent place of the building at least 24 hours before the meeting and until seven days after the meeting.
16. The MC Chairman/convenor should mark on each proxy instrument the reasons for invalidating it and to allow representatives of owners and the appointed third party to inspect invalidated proxy instruments and appeal against the invalidation with justifications.

**(c) *Administrative Measures***

17. Owners and OCs may be encouraged to adopt the following administrative measures with regard to the use, collection, and verification of proxies –
  - (i) to appoint a third party, for example, a mediator, to monitor the collection and verification of proxy instruments especially during the process leading to the appointment of an MC and the formation of an OC.
  - (ii) to comply with additional guidelines to be promulgated by HAD on the format of the notice showing the information of flats with proxy instruments lodged (for example, the font size of the words) and the additional means of dissemination (for example, posting onto the website of the OC to facilitate checking by the owners).

\* Proposals that would not be further pursued are marked with “\*”.

- (iii) owners who do not intend to appoint a proxy to register such intention with the MC Secretary/convenor, who shall cause the register to be available for public inspection.
- (iv) owners to set out their contact details (for example, telephone number, e-mail address, etc.) on the proxy instruments so as to facilitate the MC Chairman/convenor to check with the owner concerned when the validity of the proxy instrument is in doubt.
- (v) owners to use the proxy instrument issued by the OC with a unique serial number printed on it to facilitate checking by the MC.

#### **(IV) Formation of OCs**

The following measures seek to protect the rights of owners in forming OCs by lowering the threshold and tightening up the eligibility of convenors –

##### ***(a) Percentage of Shares in Aggregate Required for the Formation of OCs and Determination of Owner's Shares***

- 18. \* Whether the threshold for OC formation under section 3 of the BMO should be lowered from 30% to 20% of shares in aggregate.
- 19. \* Whether the thresholds under sections 3A and 4 of the BMO should be lowered correspondingly (say to 10% and 5% respectively), or whether there is a need to retain sections 3A and 4 of the BMO after the threshold stipulated in section 3 of the BMO has been lowered to 20%.
- 20. To introduce a technical amendment to make it clear that shares with no voting right will not be counted as part of the total shares when calculating the proportion of shares supporting the formation of an OC out of the total number of shares in aggregate.

##### ***(b) Eligibility of the Convenor***

- 21. To impose the following eligibility criteria on the convenor which are the same as those currently applied to MC members –

\* Proposals that would not be further pursued are marked with “\*”.

- (i) is not an undischarged bankrupt at the time of the appointment or has not, within the previous 5 years, either obtained a discharge in bankruptcy or entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) with his or her creditors, in either case without paying the creditors in full;
- (ii) has not, within the previous 5 years, been convicted of an offence in Hong Kong or any other place for which he or she has been sentenced to imprisonment, whether suspended or not, for a term exceeding 3 months without the option of a fine.

**(V) Termination of the Appointment of DMC Managers**

22. \* The following measures will lower the threshold for terminating the appointment of the DMC managers by owners –

- (a) to lower the threshold for terminating the appointment of DMC managers from 50% to 30% of shares in aggregate.
- (b) to limit the term of appointment of DMC managers to five years –
  - (i) during the first to second years of appointment, the DMC manager should assist the owners either to form an OC, or to appoint an owners' committee, or to appoint an owner to sign the contract with the next service provider;
  - (ii) during the third to fifth years of the appointment of the DMC manager, the owners may pass a resolution with 30% of shares in aggregate to appoint a new service provider through open tender; and
  - (iii) if the owners decide not to appoint a new service provider after the fifth year, they may negotiate new contract terms (such as the tenure of appointment, the remuneration, etc.) and enter into a new contract with the existing manager.

whether the new arrangements, if implemented, should be applicable to new and existing developments or to new developments only.

\* Proposals that would not be further pursued are marked with “\*”.

**(VI) Remuneration of DMC Managers**

23. The following shows the possible ways to reduce the remuneration rate of DMC managers of large scale developments and to improve the transparency of calculating remuneration –

- (a) to reduce the ceiling on the remuneration rate of DMC manager by a specified percentage (e.g. 0.5%) each year. An illustrative example is as below –

<b>A building with more than 100 residential units and parking spaces</b>	
<b>Year of Appointment</b>	<b>Possible Ceiling on Remuneration Rate</b>
1 <sup>st</sup> year	10%
2 <sup>nd</sup> year	9.5%
3 <sup>rd</sup> year	9%
4 <sup>th</sup> year	8.5%
5 <sup>th</sup> year and thereafter	8%

- (b) to exclude a specified list of expenditure items which do not involve any value-added services by the DMC manager (e.g. electricity charges, water bills, etc.) from the formula for calculating the remuneration of the DMC manager.
- (c) for certain expenditure items incurred by the headquarters of the DMC manager (e.g. services provided by the DMC manager’s accountants who serve more than one developments), the DMC manager should provide the owners with detailed breakdown on how the service fee of the headquarters is apportioned among the developments they serve.
- (d) \* to increase the number of tiers of ceiling on the DMC manager’s remuneration and set lower ceilings for large scale developments with, e.g. above 300, 500, 700 and 1 000 (and so on) residential units and parking spaces.

whether the new arrangements, if implemented, should be applicable to new and existing developments or to new developments only.

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\* Proposals that would not be further pursued are marked with “\*\*”.

**Review of the Building Management Ordinance (Cap. 344) (BMO)  
Summary of New Proposals**

**I. Procurement and Large-scale Maintenance Projects**

1. Apart from raising the quorum of the general meeting for the passage of resolutions on “large-scale maintenance projects” from 10% of the owners to 20% of the owners, to stipulate that at least 10% of the owners have to attend personally at a meeting of the owners’ corporation (OC) to decide on large-scale maintenance projects. [Paragraph 6]
2. To link the definition of “large-scale maintenance projects” with the average audited annual expenditure of the OC for the past three years immediately before the maintenance proposal. [Paragraph 10]
3. To refine the tiered system on “large-scale maintenance projects” by adding one more tier and setting an absolute amount for each tier as follows –
  - (i) Tier 1 – where the building contains more than 500 flats (currently constituting around 5% of all OCs), a “large-scale maintenance project” should be defined as any procurement at a cost of \$4 million or above, or 40% of the average audited annual expenditure of the OC for the past three years immediately before the maintenance proposal, whichever is the lesser;
  - (ii) Tier 2 – where the building contains 101 to 500 flats (currently constituting around 15% of all OCs), a “large-scale maintenance project” should be defined as any procurement at a cost of \$2 million or above, or 70% of the average audited annual expenditure of the OC for the past three years immediately before the maintenance proposal, whichever is the lesser; and
  - (iii) Tier 3 – where the building contains not more than 100 flats (currently constituting around 80% of all OCs), a “large-scale maintenance project” should be defined as any procurement at a cost of \$1 million or more, or twice the average audited annual expenditure of the OC for the past three years

immediately before the maintenance proposal, whichever is the lesser. [Paragraph 11]

4. To amend sections 20A and paragraph 5 of Schedule 7 to the BMO to make reference to the “audited annual expenditure of the OC”, instead of “the annual budget of the OC” as the benchmark. [Paragraph 12]
5. To specify that the declaration under the “Code of Practice on Procurement of Supplies, Goods and Services” (CoP on Procurement) should cover any business, pecuniary or any other relationship<sup>1</sup> between the DMC Manager/Property Management Company and any of the management committee (MC) members as well as the two with any tenderers/consultants/professional services providers for the OC. [Paragraph 13]
6. To make the declaration requirement in item 5 above mandatory under the BMO. [Paragraph 13]

## **II. Proxy Instruments**

7. Owners may include their voting instructions in the proxy instruments. [Paragraph 14(i)]
8. The proxy instrument should be countersigned by the proxy, so that the proxy would know the percentage of owners appointing him and such percentage should not exceed 5% of the owners. [Paragraph 14(ii)]
9. Holders of the proxies should make a declaration that the proxies they hold are honestly procured from the respective owners concerned and are true and accurate representation of the said owners’ voting instruction. [Paragraph 14(iii)]
10. The MC Secretary should disclose the name of any person holding proxies of 5% of the owners (and any person, whether attending in person or appointing proxy, holding 5% or more of the aggregate shares) on a list to be displayed pursuant to paragraph 4(5)(a)(ii) of Schedule 3 to the BMO. [Paragraph 14(iv)]

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<sup>1</sup> This refers to any relationship which in the eyes of the objective and reasonable member of the general public may influence the judgment of the person(s) concerned.

11. The OC should keep the record of the proxies and the declaration in item 9 above for at least three years<sup>2</sup>. [Paragraph 14(v)]

### **III. Safekeeping and Circulation of Records**

12. The votes cast by owners personally and those by proxy should be recorded separately in the minutes of the OC general meeting. [Paragraph 16]
13. The minutes of MC and OC meetings at which large-scale maintenance projects are discussed should be delivered to the letterboxes of the building owners, or be emailed to the email addresses of the owners (whichever applicable) within 28 days of the date of the meeting. [Paragraph 18]

### **IV. Accounts and Financial Statements**

14. The financial statements of OCs, regardless of the number of flats of the buildings, shall be audited. [Paragraph 19]
15. To add a requirement for the financial statements and the accountant's report to be posted in a conspicuous place of the building as and when such information is ready. [Paragraph 20]

### **V. Non-performance of MCs and Powers of the Authority**

16. To amend the BMO to empower that the Authority may under Section 31 of the BMO, at the request of not less than 5% of the owners, dissolve the non-performing MC and appoint an administrator to (i) chair an OC meeting to re-elect an MC, and (ii) look after the operation of the OC before a new MC is elected by the owners under BMO. [Paragraph 22]

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<sup>2</sup> Currently, paragraph 4(6) of Schedule 3 to the BMO requires that the MC shall keep all the instruments for the appointment of proxies that have been lodged with the MC Secretary for a period of at least 12 months after the conclusion of the meeting.

17. Section 40B of the BMO should be extended to empower the Authority to help resolve some management impasse, e.g. by removing the requirement on “danger or risk of danger to the occupiers or owners of the building”, so as to avoid a hiatus in the day-to-day management of the building. [Paragraph 24]
18. If the Authority orders to appoint a building management agent, he may direct that the building management agent shall hold office for an indefinite period or for a fixed period on such terms and conditions as to remuneration or otherwise as he thinks fit, and the remuneration and expenses of the administrator shall be deemed to be part of the expenses of management of the building under the BMO. [Paragraph 24]

## **VI. Criminal Sanctions**

19. To amend section 27(3) of BMO to extend the criminal liability (currently applicable to MC members) to the DMC Manager/Property Management Company in case of failure to produce annual audited accounts or audited accounts as required by contract. Any contravention would be an offence and the party concerned shall be liable on conviction to a fine at level 5, unless he proves that (i) the offence was committed without his consent or connivance; and (ii) he has exercised all such due diligence to prevent the commission of the offence as he ought to have exercised in the circumstances. [Paragraphs 26(i) and 27]
20. To amend Schedules 2 and 3 to the BMO to impose a criminal liability on DMC Manager/Property Management Company/MC Members for non-compliance with the requirements for proper safekeeping and circulation of minutes of MC/OC meetings. Any contravention would be an offence and the party concerned shall be liable on conviction to a fine at level 2, unless he proves that (i) the offence was committed without his consent or connivance; and (ii) he has exercised all such due diligence to prevent the commission of the offence as he ought to have exercised in the circumstances. [Paragraphs 26(ii) and 27]

21. To stipulate in the BMO a criminal liability on DMC Manager/Property Management Company/MC Members for non-compliance with the requirements for safekeeping of tender documents when these are made mandatory. Any contravention would be an offence and the party concerned shall be liable on conviction to a fine at level 2, unless he proves that (i) the offence was committed without his consent or connivance; and (ii) he has exercised all such due diligence to prevent the commission of the offence as he ought to have exercised in the circumstances. [Paragraphs 26(iii) and 27]
22. To amend section 27 of the BMO and other penalty provisions to better reflect the current practice, by empowering the Authority to issue a warning to specify an extended date for compliance taking into account any reasonable excuse and the circumstances of each case, before invoking the penalty provisions. [Paragraph 28]
23. To amend the BMO, to the effect that any prosecution under the BMO shall be commenced (i) within 24 months of the commission of the offence; or (ii) within 24 months of the offence being discovered by or coming to the notice of the Authority, whichever is the later. [Paragraph 30]

## **VII. Other Technical Amendments**

24. To revise the minimum requirement on the number of MC members in paragraph 1(1) of Schedule 2 to the BMO as follows –
  - (i) where the building contains not more than 50 flats, the number of members shall be not less than 3;
  - (ii) where the building contains more than 50 flats but not more than 100 flats, the number of members shall be not less than 7;
  - (iii) where the building contains more than 100 flats but not more than 500 flats, the number of members shall be not less than 9 (*new requirement*); and
  - (iv) where the building contains more than 500 flats, the number of members shall be not less than 11 (*new requirement*). [Paragraph 2 of **Annex D**]

25. For co-owners of one flat, signature by only one of the co-owners should be counted towards the 5% of owners under paragraph 1(2) of Schedule 3 to the BMO. [Paragraph 4 of **Annex D**]
26. To consider amending section 8 of the BMO to the effect that, for the avoidance of doubt, sections 8(2)(a) and (2)(aa) shall have effect, notwithstanding any changes to the DMC and land lease provided that the building (as defined in section 2 of the BMO) remains the same. [Paragraph 5 of **Annex D**]
27. To amend the BMO to prescribe –
  - (i) the instrument for a body corporate to appoint an authorised representative; and
  - (ii) the checking mechanism (similar to the prescribed proxy instrument for attendance at OC general meetings). [Paragraph 6 of **Annex D**]
28. To amend the BMO to empower the Authority to shorten the notice period for OC meeting in case of emergency. [Paragraph 7 of **Annex D**]
29. To refer to the “Building Maintenance Toolkit” in the CoP on Procurement where appropriate. [Paragraph 8 of **Annex D**]
30. To reduce the cap, as set out in the DMC Guidelines, on the percentage of total expenses for remuneration of DMC manager by 20%, i.e. –
  - (i) for developments with not more than 20 residential units and parking spaces, to reduce the ceiling on the remuneration rate of DMC managers by 0.5% per year from 20% to 16% ultimately; and
  - (ii) for developments with 21 to 100 residential units and parking spaces, to reduce the ceiling on the remuneration rate of DMC managers by 0.5% per year from 15% to 12% ultimately. [Paragraph 11 of **Annex D**]

### **VIII. Measures Pending Amendments to the BMO**

31. To include those proposals, which are not in conflict with the BMO, in the Codes of Practice as best practices. [Paragraph 33]
32. To require the MC Chairman and the DMC manager to sign a checklist confirming that the procedure for convening a meeting and the proper disclosure of the information on proxies for the OC meetings have been complied with. There should be explanation for any deviation from the requirements in the guidelines in the checklist for the sake of transparency and accountability. [Paragraph 34]

### **IX. Related Administrative Support Measures**

33. To launch the “Building Management Dispute Resolution Service”. [Paragraphs 35 and 36]
34. To launch the “Pre-Meeting Advisory Service for OCs”. [Paragraphs 38 and 39]

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**Consolidated Proposals in (i) the Consultation Paper on Review of the Building Management Ordinance (Cap. 344) (BMO) in 2014-2015, (ii) the Paper for the Legislative Council Panel on Home Affairs (HA Panel) in 2016 and (iii) the Latest Proposals in 2017**

(A) Consultation Paper on BMO Review in 2014-2015	(B) Proposals in the HA Panel Paper in 2016	(C) Latest Proposals in 2017
<b>(I) Procurement and Large-scale Maintenance Projects</b>		
<b>(a) Quorum of Meeting and Percentage of Votes</b>		
<p>1. (i) The quorum of the meeting be raised from 10% to, say 20%, of the total number of owners; or</p> <p>(ii) The required percentage of shares of votes for the passage of the resolution be raised from 50% to, say 75%, of the shares of votes at the meeting.</p>	<p>1. To adopt item 1(i) in Column (A).</p>	<p>1. Apart from adopting item 1(i) in Column (A), to stipulate that at least 10% of the owners have to attend personally at a meeting of the owners' corporation (OC) to decide on large-scale maintenance projects.</p>
<b>(b) Definition of "Large-Scale Maintenance Projects"</b>		
<p>2. To consider how "large-scale maintenance projects" should be defined for the purpose of BMO. Options include –</p> <p>(i) projects exceeding a certain percentage (or percentages) of the total annual budget of the OC; or</p> <p>(ii) set the threshold as the amount the owner(s) of each flat will have to contribute to the project.</p>	<p>2. To adopt item 2(i) in Column (A).</p> <p>3. To consider introducing a tiered system in respect of the definition of "large-scale maintenance projects". For example –</p> <p>(i) where the building contains more than 100 flats, a "large-scale maintenance project" shall be defined as any procurement with a cost equivalent to or exceeding 40% of the annual budget of the OC; and</p> <p>(ii) where the building contains not more</p>	<p>2. Apart from adopting item 2(i) in Column (A), to link the definition of "large-scale maintenance projects" with the average audited annual expenditure of the OC for the past three years immediately before the maintenance proposal.</p> <p>3. To refine the tiered system on "large-scale maintenance projects" by adding one more tier and setting an absolute amount for each tier as follows –</p> <p>(i) Tier 1 - where the building contains more than 500 flats (currently</p>

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<b>(A) Consultation Paper on BMO Review in 2014-2015</b>	<b>(B) Proposals in the HA Panel Paper in 2016</b>	<b>(C) Latest Proposals in 2017</b>
	<p>than 100 flats, a “large-scale maintenance project” shall be defined as any procurement with a cost equivalent to or exceeding \$1 million or twice the annual budget of the OC, whichever is the lesser.</p>	<p>constituting around 5% of all OCs), a “large-scale maintenance project” would be defined as any procurement at a cost of \$4 million or above, or 40% of the average audited annual expenditure of the OC for the past three years immediately before the maintenance proposal, whichever is the lesser;</p> <p>(ii) Tier 2 - where the building contains 101 to 500 flats (currently constituting around 15% of all OCs), a “large-scale maintenance project” would be defined as any procurement at a cost of \$2 million or above, or 70% of the average audited annual expenditure of the OC for the past three years immediately before the maintenance proposal, whichever is the lesser; and</p> <p>(iii) Tier 3 - where the building contains not more than 100 flats (currently constituting around 80% of all OCs), a “large-scale maintenance project” would be defined as any procurement at a cost of \$1 million or more, or twice the average audited annual expenditure of the OC for the past three years immediately before the</p>

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(A) Consultation Paper on BMO Review in 2014-2015	(B) Proposals in the HA Panel Paper in 2016	(C) Latest Proposals in 2017
		maintenance proposal, whichever is the lesser.
<b>(c) Notice of Meeting</b>		
<p>3. Should be given to each owner at least 21 days before the holding of the meeting.</p> <p>4. Should carry a conspicuous “alert” that any decision(s) to be taken at the OC meeting may result in the contribution of funds exceeding a certain specified amount by each owner.</p>	<p>4. To adopt item 3 in Column (A).</p> <p>5. To adopt item 4 in Column (A).</p>	Nil
<b>(d) Tender Process</b>		
<p>5. To stipulate in the BMO additional requirements on the tender process, e.g. displaying a copy of the invitation to tender at a prominent place of the building, allowing inspection of the tender documents by owners, etc.</p>	<p>6. To adopt item 5 in Column (A). Specifically, to amend the BMO by incorporating the following existing requirements in the “Code of Practice on Procurement of Supplies, Goods and Services” (CoP on Procurement) issued by the Secretary for Home Affairs (SHA) under the BMO into the Schedule to the BMO –</p> <p>(i) The management committee (MC) shall prepare an invitation to tender and display a copy of it in a prominent place in the building. The closing date and time for acceptance of tenders shall be clearly stated in the invitation to tender.</p>	<p>4. Apart from adopting item 5 in Column (A), to amend section 20A and paragraph 5 of Schedule 7 to the BMO to make reference to the “audited annual expenditure of the OC”, instead of “the annual budget of the OC” as the benchmark.</p> <p>5. To specify that the declaration under the CoP on Procurement should cover any business, pecuniary or any other relationship<sup>1</sup> between the DMC Manager/Property Management Company and any of the MC members as well as the two with any tenderers/consultants/professional services</p>

<sup>1</sup> This refers to any relationship which in the eyes of the objective and reasonable member of the general public may influence the judgment of the person(s) concerned.

\* Proposals in the Consultation Paper that would not be further pursued are marked with “\*”.

<b>(A) Consultation Paper on BMO Review in 2014-2015</b>	<b>(B) Proposals in the HA Panel Paper in 2016</b>	<b>(C) Latest Proposals in 2017</b>
	<p>Late submissions shall not be accepted.</p> <p>(ii) The MC shall invite at least 5 tenders. Where the number of valid tenders obtained is fewer than 5, the MC shall pass a resolution to accept or reject the tender exercise.</p> <p>(iii) An MC member or manager of the building (if any) shall disclose in writing to the MC any personal or pecuniary interest that he may have in the tender. An MC member who has indicated a personal or pecuniary interest in the tender should abstain from voting in the selection of such tender at an MC meeting.</p> <p>(iv) The MC shall maintain and keep in safe custody all documents relating to the tender for at least 6 years. The documents shall contain sufficient information to enable the person doing inspection to calculate the financial liability of the OC at the time of inspection (including any financial liability in future).</p> <p>(v) The MC shall permit the Authority, the tenants' representative, an owner, a registered mortgagee or any other person authorised in writing by an</p>	<p>providers for the OC.</p> <p>6. To make the declaration requirement in item 5 of "Latest Proposals in 2017" mandatory under the BMO.</p>

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<b>(A) Consultation Paper on BMO Review in 2014-2015</b>	<b>(B) Proposals in the HA Panel Paper in 2016</b>	<b>(C) Latest Proposals in 2017</b>
	owner or a registered mortgagee to inspect the documents relating to the tender at any reasonable time. The MC shall, on the payment of a reasonable copying charge, supply copies of the relevant documents.	
<b>(II) <u>Convening of an OC General Meeting at the Request of Owners</u></b>		
<p>6. Require the MC Chairman to place the discussion item requested by the owners on a high priority on the agenda; and</p> <p>7. When the office of the MC Chairman is vacant, the Vice-chairman should convene the general meeting in place of the Chairman –</p> <p>(a) where no Vice-chairman is elected, the MC should appoint one of its members to convene the general meeting; and</p> <p>(b) * where the MC fails to appoint any member to convene the general meeting, those owners who have requested to convene the general meeting may nominate a representative among themselves to convene the general meeting.</p>	<p>7. To adopt items 6 and 7 in Column (A), except item 7(b), where the MC fails to appoint any member to convene the general meeting. Under such circumstances, the owners can apply to the Lands Tribunal for appointment of an administrator in accordance with section 31 of the BMO to dissolve and re-elect the MC.</p>	<p>Please see item 16 of “Latest Proposals in 2017”</p>

\* Proposals in the Consultation Paper that would not be further pursued are marked with “\*”.

(A) Consultation Paper on BMO Review in 2014-2015	(B) Proposals in the HA Panel Paper in 2016	(C) Latest Proposals in 2017
<b>(III) Counterfeit Proxy Instruments and Improper Practices</b>		
<p><b>(a) Collection of Proxy Instruments</b></p> <p>8. To require the MC Secretary/convenor to state clearly in the notice of meeting as to the exact location of the proxy collection boxes and the timing for opening the boxes to inspect and count the proxy.</p> <p>9. The proxy collection boxes should be double-locked and placed in a prominent location of the building.</p> <p>10. The two keys of each box should be held by the MC Secretary /convenor and a third party (e.g., a mediator, an auditor or a lawyer) respectively.</p> <p>11. The boxes should be opened by the key holders in the presence of witnesses.</p> <p>12. Only the original copy of the proxy forms will be accepted.</p> <p>13. The date of the OC meeting should be printed on each proxy form.</p>	<p>8. To adopt items 8 to 17 in Column (A). In addition, the MC Secretary shall be required to determine the validity date for proxy instruments lodged by post according to the time the MC receives the relevant instrument.</p> <p>9. To consider setting a ceiling on the number of proxy instruments that a person can hold. We proposed that the maximum number of proxy instruments a person can hold shall not exceed 5% of the owners.</p> <p>10. With regard to item 15 in Column (A), paragraph 4(3) of Schedule 3 to the BMO shall be amended accordingly to stipulate that proxy instruments shall be lodged with the MC Secretary at least 72 hours before the meeting.</p> <p>11. The MC Secretary/convenor, on passing a receipt of proxy instrument to the owner in person, or leaving it at the flat of the owner or depositing it in the letter box provided for that flat, shall issue a copy of the proxy instrument which is subject to verification to the owner at the same time.</p>	<p>Apart from adopting items 8 to 13 in Column (B) –</p> <p>7. Owners may include their voting instructions in the proxy instruments.</p> <p>8. The proxy instrument should be countersigned by the proxy, so that the proxy would know the percentage of owners appointing him and such percentage should not exceed 5% of the owners.</p> <p>9. Holders of the proxies should make a declaration that the proxies they hold are honestly procured from the respective owners concerned and are true and accurate representation of the said owners' voting instruction.</p> <p>10. The MC Secretary should disclose the name of any person holding proxies of 5% of the owners (and any person, whether attending in person or appointing proxy, holding 5% or more of the aggregate shares) on a list to be displayed pursuant to paragraph 4(5)(a)(ii) of Schedule 3 to the BMO.</p>

\* Proposals in the Consultation Paper that would not be further pursued are marked with “\*”.

<b>(A) Consultation Paper on BMO Review in 2014-2015</b>	<b>(B) Proposals in the HA Panel Paper in 2016</b>	<b>(C) Latest Proposals in 2017</b>
<p>14. To provide the MC Secretary/convenor with an additional means of acknowledging receipt of the proxy instrument by passing the receipts to the owners in person.</p> <p><i>(b) Verification of Proxy Instruments</i></p> <p>15. The list of flats with proxy instruments lodged should be displayed in a prominent place of the building at least 24 hours before the meeting and until seven days after the meeting.</p> <p>16. The MC Chairman/convenor should mark on each proxy instrument the reasons for invalidating it and to allow representatives of owners and the appointed third party to inspect invalidated proxy instruments and appeal against the invalidation with justifications.</p> <p><i>(c) Administrative Measures</i></p> <p>17. Owners and OCs may be encouraged to adopt the following administrative measures with regard to the use, collection, and verification of proxies –</p>	<p>12. If more than one proxy instrument are received from the same owner for the same general meeting, the MC Chairman shall verify with the owner concerned.</p> <p>13. The MC Chairman/convenor shall be required to announce the number of invalid proxy instruments and justifications for ruling the proxy instruments invalid before the general meeting.</p>	<p>11. The OC should keep the record of the proxies and the declaration in item 9 of “Latest Proposals in 2017” for at least three years<sup>2</sup>.</p>

<sup>2</sup> Currently, paragraph 4(6) of Schedule 3 to the BMO requires that the MC shall keep all the instruments for the appointment of proxies that have been lodged with the MC Secretary for a period of at least 12 months after the conclusion of the meeting.

\* Proposals in the Consultation Paper that would not be further pursued are marked with “\*”.

<b>(A) Consultation Paper on BMO Review in 2014-2015</b>	<b>(B) Proposals in the HA Panel Paper in 2016</b>	<b>(C) Latest Proposals in 2017</b>
<p>(i) to appoint a third party, for example, a mediator, to monitor the collection and verification of proxy instruments especially during the process leading to the appointment of an MC and the formation of an OC.</p> <p>(ii) to comply with additional guidelines to be promulgated by HAD on the format of the notice showing the information of flats with proxy instruments lodged (for example, the font size of the words) and the additional means of dissemination (for example, posting onto the website of the OC to facilitate checking by the owners).</p> <p>(iii) owners who do not intend to appoint a proxy to register such intention with the MC Secretary/convenor, who shall cause the register to be available for public inspection.</p> <p>(iv) owners to set out their contact details (for example, telephone number, e-mail address, etc.) on the proxy instruments so as to facilitate the MC Chairman/convenor to check with the owner concerned when the validity of the proxy instrument is in doubt.</p>		

\* Proposals in the Consultation Paper that would not be further pursued are marked with “\*”.

<b>(A) Consultation Paper on BMO Review in 2014-2015</b>	<b>(B) Proposals in the HA Panel Paper in 2016</b>	<b>(C) Latest Proposals in 2017</b>
(v) owners to use the proxy instrument issued by the OC with a unique serial number printed on it to facilitate checking by the MC.		
<b>(IV) <u>Safekeeping and Circulation of Records</u></b>		
Nil	Nil	<p>12. The votes cast by owners personally and those by proxy should be recorded separately in the minutes of the OC general meeting.</p> <p>13. The minutes of MC and OC meetings at which large-scale maintenance projects are discussed should be delivered to the letterboxes of the building owners, or be emailed to the email addresses of the owners (whichever applicable) within 28 days of the date of the meeting.</p>
<b>(V) <u>Accounts and Financial Statements</u></b>		
Nil	Nil	<p>14. The financial statements of OCs, regardless of the number of flats of the buildings, shall be audited.</p> <p>15. To add a requirement for the financial statements and the accountant's report to be posted in a conspicuous place of the building as and when such information is ready.</p>

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(A) Consultation Paper on BMO Review in 2014-2015	(B) Proposals in the HA Panel Paper in 2016	(C) Latest Proposals in 2017
<b>(VI) <u>Non-performance of MCs and Powers of the Authority</u></b>		
Nil	Nil	<p>16. To amend the BMO to empower that the Authority may under Section 31 of the BMO, at the request of not less than 5% of the owners, dissolve the non-performing MC and appoint an administrator to (i) chair an OC meeting to re-elect an MC, and (ii) look after the operation of the OC before a new MC is elected by the owners under BMO.</p> <p>17. Section 40B of the BMO should be extended to empower the Authority to help resolve some management impasse, e.g. by removing the requirement on “danger or risk of danger to the occupiers or owners of the building”, so as to avoid a hiatus in the day-to-day management of the building.</p> <p>18. If the Authority orders to appoint a building management agent, he may direct that the building management agent shall hold office for an indefinite period or for a fixed period on such terms and conditions as to remuneration or otherwise as he thinks fit, and the remuneration and expenses of the administrator shall be deemed to be part of the expenses of management of the building under the BMO.</p>

\* Proposals in the Consultation Paper that would not be further pursued are marked with “\*”.

(A) Consultation Paper on BMO Review in 2014-2015	(B) Proposals in the HA Panel Paper in 2016	(C) Latest Proposals in 2017
<b>(VII) <u>Criminal Sanctions</u></b>		
Nil	Nil	<p>19. To amend section 27(3) of BMO to extend the criminal liability (currently applicable to MC members) to the DMC Manager/Property Management Company in case of failure to produce annual audited accounts or audited accounts as required by contract. Any contravention would be an offence and the party concerned shall be liable on conviction to a fine at level 5, unless he proves that (i) the offence was committed without his consent or connivance; and (ii) he has exercised all such due diligence to prevent the commission of the offence as he ought to have exercised in the circumstances.</p> <p>20. To amend Schedules 2 and 3 to the BMO to impose a criminal liability on DMC Manager/Property Management Company/MC Members for non-compliance with the requirements for proper safekeeping and circulation of minutes of MC/OC meetings. Any contravention would be an offence and the party concerned shall be liable on conviction to a fine at level 2, unless he proves that (i) the offence was committed without his consent or connivance; and (ii) he has exercised all such due diligence to prevent the commission of the offence as he ought to have exercised in the circumstances.</p>

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<b>(A) Consultation Paper on BMO Review in 2014-2015</b>	<b>(B) Proposals in the HA Panel Paper in 2016</b>	<b>(C) Latest Proposals in 2017</b>
		<p>21. To stipulate in the BMO a criminal liability on DMC Manager/Property Management Company/MC Members for non-compliance with the requirements for safekeeping of tender documents when these are made mandatory. Any contravention would be an offence and the party concerned shall be liable on conviction to a fine at level 2, unless he proves that (i) the offence was committed without his consent or connivance; and (ii) he has exercised all such due diligence to prevent the commission of the offence as he ought to have exercised in the circumstances.</p> <p>22. To amend section 27 of the BMO and other penalty provisions to better reflect the current practice, by empowering the Authority to issue a warning to specify an extended date for compliance taking into account any reasonable excuse and the circumstances of each case, before invoking the penalty provisions.</p> <p>23. To amend the BMO, to the effect that any prosecution under the BMO shall be commenced (i) within 24 months of the commission of the offence; or (ii) within 24 months of the offence being discovered by or coming to the notice of the Authority, whichever is the later.</p>

\* Proposals in the Consultation Paper that would not be further pursued are marked with “\*”.

(A) Consultation Paper on BMO Review in 2014-2015	(B) Proposals in the HA Panel Paper in 2016	(C) Latest Proposals in 2017
<b>(VIII) Formation of OCs</b>		
<b>(a) <i>Percentage of Shares in Aggregate Required for the Formation of OCs and Determination of Owner's Shares</i></b>		
<p>18. * Whether the threshold for OC formation under section 3 of the BMO should be lowered from 30% to 20% of shares in aggregate.</p> <p>19. * Whether the thresholds under sections 3A and 4 of the BMO should be lowered correspondingly (say to 10% and 5% respectively), or whether there is a need to retain sections 3A and 4 of the BMO after the threshold stipulated in section 3 of the BMO has been lowered to 20%.</p> <p>20. To introduce a technical amendment to make it clear that shares with no voting right will not be counted as part of the total shares when calculating the proportion of shares supporting the formation of an OC out of the total number of shares in aggregate<sup>3</sup>.</p>	<p>14. Not to further pursue items 18 and 19 in Column (A), i.e. to maintain the percentages of shares in aggregate required for the formation of OCs stipulated under sections 3, 3A and 4 of the existing BMO.</p>	<p>Nil</p>
<b>(b) <i>Eligibility of the Convenor</i></b>		
<p>21. To impose the following eligibility criteria on the convenor which are the same as those currently applied to MC members –</p> <p>(i) is <u>not</u> an undischarged bankrupt at the time of the appointment or has <u>not</u>,</p>	<p>15. To adopt item 21 in Column (A).</p> <p>16. In addition, a convenor shall cease to be a convenor for the discharge of his duties if he –</p>	<p>Nil</p>

<sup>3</sup> No particular view on this proposal was received during the public consultation. Given the technical nature, we will adopt this proposal when amending the BMO.

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<b>(A) Consultation Paper on BMO Review in 2014-2015</b>	<b>(B) Proposals in the HA Panel Paper in 2016</b>	<b>(C) Latest Proposals in 2017</b>
<p>within the previous 5 years, either obtained a discharge in bankruptcy or entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) with his or her creditors, in either case without paying the creditors in full;</p> <p>(ii) has <u>not</u>, within the previous 5 years, been convicted of an offence in Hong Kong or any other place for which he or she has been sentenced to imprisonment, whether suspended or not, for a term exceeding 3 months without the option of a fine.</p>	<p>(i) becomes incapacitated by physical or mental illness; or</p> <p>(ii) ceases to be an owner, if appointed in his capacity as an owner.</p>	
<b>(IX) Termination of the Appointment of DMC Managers</b>		
<p>22. * The following measures will lower the threshold for terminating the appointment of the DMC managers by owners –</p> <p>(a) to lower the threshold for terminating the appointment of DMC managers from 50% to 30% of shares in aggregate.</p> <p>(b) to limit the term of appointment of DMC managers to five years –</p> <p>(i) during the first to second years of appointment, the DMC manager should assist the owners either to form an OC, or to appoint an</p>	<p>17. Not to further pursue item 22 in Column (A).</p> <p>18. To introduce an additional arrangement, that the term of appointment of DMC managers would be automatically terminated five years after the formation of OC.</p>	<p>Nil</p>

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<b>(A) Consultation Paper on BMO Review in 2014-2015</b>	<b>(B) Proposals in the HA Panel Paper in 2016</b>	<b>(C) Latest Proposals in 2017</b>
<p>owners' committee, or to appoint an owner to sign the contract with the next service provider;</p> <p>(ii) during the third to fifth years of the appointment of the DMC manager, the owners may pass a resolution with 30% of shares in aggregate to appoint a new service provider through open tender; and</p> <p>(iii) if the owners decide not to appoint a new service provider after the fifth year, they may negotiate new contract terms (such as the tenure of appointment, the remuneration, etc.) and enter into a new contract with the existing manager.</p> <p>whether the new arrangements, if implemented, should be applicable to new and existing developments or to new developments only.</p>		
<b>(X) Remuneration of DMC Managers</b>		
<p>23. The following shows the possible ways to reduce the remuneration rate of DMC managers of large scale developments and to improve the transparency of calculating remuneration –</p> <p>(a) for developments with more than 100</p>	<p>19. To adopt items 23(a)-(c), but not to pursue item 23(d) in Column (A).</p>	<p>24. To reduce the cap, as set out in the DMC Guidelines, on the percentage of total expenses for remuneration of DMC manager by 20%, i.e. –</p> <p>(a) for developments with not more than 20</p>

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<b>(A) Consultation Paper on BMO Review in 2014-2015</b>	<b>(B) Proposals in the HA Panel Paper in 2016</b>	<b>(C) Latest Proposals in 2017</b>
<p>residential units and parking spaces, to reduce the ceiling on the remuneration rate of DMC manager by a specified percentage (e.g. 0.5%) each year, from 10% to 8% ultimately;</p> <p>(b) to exclude a specified list of expenditure items which do not involve any value-added services by the DMC manager (e.g. electricity charges, water bills, etc.) from the formula for calculating the remuneration of the DMC manager.</p> <p>(c) for certain expenditure items incurred by the headquarters of the DMC manager (e.g. services provided by the DMC manager’s accountants who serve more than one developments), the DMC manager should provide the owners with detailed breakdown on how the service fee of the headquarters is apportioned among the developments they serve.</p> <p>(d) * to increase the number of tiers of ceiling on the DMC manager’s remuneration and set lower ceilings for large scale developments with, e.g. above 300, 500, 700 and 1 000 (and so on) residential units and parking</p>		<p>residential units and parking spaces, to reduce the ceiling on the remuneration rate of DMC managers by 0.5% per year from 20% to 16% ultimately; and</p> <p>(b) for developments with 21 to 100 residential units and parking spaces, to reduce the ceiling on the remuneration rate of DMC managers by 0.5% per year from 15% to 12% ultimately.</p>

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(A) Consultation Paper on BMO Review in 2014-2015	(B) Proposals in the HA Panel Paper in 2016	(C) Latest Proposals in 2017
<p>spaces.</p> <p>whether the new arrangements, if implemented, should be applicable to new and existing developments or to new developments only.</p>		
<b>(XI) Other Technical Amendments</b>		
<p>Nil</p>	<p>Nil</p>	<p>25. To revise the minimum requirement on the number of MC members in paragraph 1(1) of Schedule 2 to the BMO as follows –</p> <ul style="list-style-type: none"> <li>(a) where the building contains not more than 50 flats, the number of members shall be not less than 3;</li> <li>(b) where the building contains more than 50 flats but not more than 100 flats, the number of members shall be not less than 7;</li> <li>(c) where the building contains more than 100 flats but not more than 500 flats, the number of members shall be not less than 9 (<i>new requirement</i>); and</li> <li>(d) where the building contains more than 500 flats, the number of members shall be not less than 11 (<i>new requirement</i>).</li> </ul>

\* Proposals in the Consultation Paper that would not be further pursued are marked with “\*”.

<b>(A) Consultation Paper on BMO Review in 2014-2015</b>	<b>(B) Proposals in the HA Panel Paper in 2016</b>	<b>(C) Latest Proposals in 2017</b>
		<p>26. For co-owners of one flat, signature by only one of the co-owners should be counted towards the 5% of owners under paragraph 1(2) of Schedule 3 to the BMO.</p> <p>27. To consider amending section 8 of the BMO to the effect that, for the avoidance of doubt, sections 8(2)(a) and (2)(aa) shall have effect, notwithstanding any changes to the DMC and land lease provided that the building (as defined in section 2 of the BMO) remains the same.</p> <p>28. To amend the BMO to prescribe –</p> <ul style="list-style-type: none"> <li>(a) the instrument for a body corporate to appoint an authorised representative; and</li> <li>(b) the checking mechanism (similar to the prescribed proxy instrument for attendance at OC general meetings).</li> </ul> <p>29. To amend the BMO to empower the Authority to shorten the notice period for OC meeting in case of emergency.</p> <p>30. To refer to the “Building Maintenance Toolkit” in the CoP on Procurement where appropriate.</p>

\* Proposals in the Consultation Paper that would not be further pursued are marked with “\*”.

(A) Consultation Paper on BMO Review in 2014-2015	(B) Proposals in the HA Panel Paper in 2016	(C) Latest Proposals in 2017
<b>(XII) <u>Measures Pending Amendments to the BMO</u></b>		
Nil	20. Given the time required to amend the BMO, we recommended and encouraged OCs to adopt those proposals that did not contravene the existing BMO through administrative guidelines (i.e. “Guidelines on Procurement Process of an OC” and “Guidelines on Proxy for the General Meeting of an OC”), so as to respond to the public concerns on the arrangements for procurement and proxy instruments by OCs as soon as practicable.	31. To include those proposals, which are not in conflict with the BMO, in the Codes of Practice as best practices.  32. To require the MC Chairman and the DMC manager to sign a checklist confirming that the procedure for convening a meeting and the proper disclosure of the information on proxies for the OC meetings have been complied with. There should be explanation for any deviation from the requirements in the guidelines in the checklist for the sake of transparency and accountability.
<b>(XIII) <u>Related Administrative Support Measures</u></b>		
Nil	Nil	33. To launch the “Building Management Dispute Resolution Service”.  34. To launch the “Pre-Meeting Advisory Service for OCs”.

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\* Proposals in the Consultation Paper that would not be further pursued are marked with “\*”.

**Other Proposed Technical Amendments to  
the Building Management Ordinance (Cap. 344) (BMO)**

**(I) Minimum Number of MC Members**

Paragraph 1(1) of Schedule 2 to the BMO requires the minimum number of MC members as follows –

- (a) where the building contains not more than 50 flats, the number of members shall be not less than 3;
- (b) where the building contains more than 50 flats but not more than 100 flats, the number of members shall be not less than 7;
- (c) where the building contains more than 100 flats, the number of members shall be not less than 9.

2. While the BMO only sets a requirement on the minimum number of MC members, Members raised concern at the meeting on 17 May 2016 that the existing tiered system might not be able to cater for the actual circumstances, where there might be a large number of flats in one housing estate. Drawing reference to the proposed tiered system on large-scale maintenance projects and in response to Members' concern, we propose to revise the minimum requirement as follows –

- (a) where the building contains not more than 50 flats, the number of members shall be not less than 3;
- (b) where the building contains more than 50 flats but not more than 100 flats, the number of members shall be not less than 7;
- (c) where the building contains more than 100 flats but not more than 500 flats, the number of members shall be not less than 9 (*new requirement*); and
- (d) where the building contains more than 500 flats, the number of members shall be not less than 11 (*new requirement*).

**(II) Calculation on Percentage of Owners to Convene an OC General Meeting**

3. Paragraph 1(2) of Schedule 3 to the BMO provides that the MC Chairman shall convene an OC general meeting at the request of not less than 5% of the owners for the purposes specified by such owners within

14 days of receiving such request, and hold the general meeting within 45 days of receiving such request. For co-owners of one flat, there is no provision specifying whether the signatures of all owners are required for the purpose of calculating 5% of owners.

4. Paragraph 3(5)(b) and (c) of Schedule 3 to the BMO provides how the votes of co-owners of a share may be cast<sup>1</sup>. With reference to paragraph 3(5)(b)(iii), we propose that for co-owners of one flat, signature by only one of the co-owners should be counted towards the 5% of owners.

### **(III) Continuity of OCs after the expiry of land lease (whether with or without new DMC)**

5. To address future problems similar to the Pokfulam Gardens (薄扶林花園) in Southern District, we propose to consider amending section 8 of the BMO to the effect that, for the avoidance of doubt, sections 8(2)(a) and (2)(aa)<sup>2</sup> shall have effect, notwithstanding any changes to the DMC and land lease provided that the building (as defined in section 2 of the BMO) remains the same.

### **(IV) Appointment of Body Corporate as MC Member**

6. Paragraph 11(1) of Schedule 2 to the BMO provides, amongst others, that where an owner or other person, being a body corporate, is

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<sup>1</sup> Paragraph 3(5)(b) of Schedule 3 to the BMO provides that where 2 or more persons are the co-owners of a share, the vote in respect of the share may be cast –

- (i) by a proxy jointly appointed by the co-owners;
- (ii) by a person appointed by the co-owners from amongst themselves; or
- (iii) if no appointment is made under sub-sub-subparagraph (i) or (ii), either by one of the co-owners personally or by a proxy appointed by one of the co-owners.

Paragraph 3(5)(c) of Schedule 3 to the BMO provides that where 2 or more persons are the co-owners of a share and more than one of the co-owners seeks to cast a vote in respect of the share, only the vote that is cast, whether personally or by proxy, by the co-owner whose name, in order of priority, stands highest in relation to that share in the register kept at the Land Registry shall be treated as valid.

<sup>2</sup> Section 8(2) of the BMO provides, amongst others, that with effect from the date of issue of the certificate of registration under subsection (1) –

- (a) the owner for the time being shall be a body corporate with perpetual succession and shall in the name of the OC specified in the certificate of registration be capable of suing and being sued and, subject to the BMO, of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer;
- (aa) the OC shall have, and be deemed always to have had, the power to hold an undivided share in the building, together with the right to the exclusive possession of any part of the building other than the common parts thereof.

appointed as a MC Member, that body corporate may appoint a director or other officer of that body or some other individual to act as its representative (“authorised representative” (獲授權代表)) for the purposes of the BMO as if the authorised representative were a MC Member in his own right. The BMO, however, does not specify how a body corporate should appoint an authorised representative. We propose to amend the BMO to prescribe –

- (a) the instrument for a body corporate to appoint an authorised representative; and
- (b) the checking mechanism (similar to the prescribed proxy instrument for attendance at OC general meetings).

#### **(V) Notice of OC Meeting**

7. Paragraph 2(2) of Schedule 3 to the BMO requires that the MC Secretary shall, at least 14 days before the date of the OC meeting, display the notice of meeting in a prominent place in the building. We have come across situations where an urgent OC meeting is required to carry out urgent maintenance works. We propose to amend the BMO to empower the Authority to shorten the notice period for OC meeting in case of emergency.

#### **(VI) Code of Practice on Procurement of Supplies, Goods and Services**

8. The Independent Commission Against Corruption (ICAC) published the “Building Maintenance Toolkit” to provide a user-friendly guide to help OCs and owners in the planning and management of building maintenance projects. To allow owners to have one-stop access to the best practices on procurement, we propose to refer to the “Building Maintenance Toolkit” in the Code of Practice on Procurement of Suppliers, Goods and Services (CoP) where appropriate. For example –

- (a) OCs/MCs should, as far as practicable, adopt open tendering, such as putting advertisement on newspapers, to enhance tender competition and minimise the risks of tender collusion;
- (b) if it is decided to adopt selective/restricted tendering, OCs/MCs are advised to –

- (i) appoint a panel comprising representatives of property owners, MC members and property management companies, if any, to draw up a list of consultants for invitation of tenders;
- (ii) require all members of the panel to declare whether or not they have any conflict of interest; and
- (iii) make reference to the lists of consultants maintained by various Government Departments, public organisations or professional bodies and consult other OCs who have completed renovation projects satisfactorily when sourcing potential consultants, and ensure a sufficient number of consultants on the invitation list.

## **(VII) Remuneration of DMC Managers**

9. Currently, according to the DMC Guidelines, the remuneration of DMC manager is capped below a certain percentage of the total expenses, costs and charges necessarily and reasonably incurred in the management of the development. For residential developments, the maximum percentage is set according to the total number of residential units and parking spaces in the development –

- (a) 20% for developments with not more than 20 residential units and parking spaces;
- (b) 15% for developments with 21 to 100 residential units and parking spaces; and
- (c) 10% for developments with 101 or more residential units and parking spaces.

10. Taking into account the views of different sectors and the actual management of housing estates at present, we last proposed to amend the DMC Guidelines to reduce the ceiling on the remuneration rate of DMC managers for (c) above by 0.5% per year to 8% ultimately, (i.e. a reduction of 20%). Members were concerned about the proposals for the remaining two tiers.

11. We further propose to apply the same percentage of reduction to the other two tiers of developments, i.e. –

- (a) for developments with not more than 20 residential units and parking spaces, to reduce the ceiling on the remuneration rate of DMC managers by 0.5% per year from 20% to 16% ultimately; and
- (b) for developments with 21 to 100 residential units and parking spaces, to reduce the ceiling on the remuneration rate of DMC managers by 0.5% per year from 15% to 12% ultimately.

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**(Name of owners' corporation) Owners' Corporation**  
**Checklist on Procedural Propriety**  
**for Owners' Meeting scheduled for (Meeting Date)**

✧ Requirements in Schedule 3 to the Building Management Ordinance (Cap. 344) (BMO)

☞ Good Practice recommended

**(A) Convening of a General Meeting of the Owners' Corporation (OC)**

	<b>Procedural Arrangements</b>	<b>Please “✓” if Complied With</b>	<b>Reason(s) for Deviation</b>
1.	✧ <b><u>Paragraph 1(1)</u></b> The management committee (MC) shall convene – <ul style="list-style-type: none"> <li>(a) the first OC annual general meeting not later than 15 months after the date of the registration of the OC;</li> <li>(b) an annual general meeting not earlier than 12 months, and not later than 15 months, after the date of the first or previous annual general meeting;</li> <li>(c) an OC general meeting at any time for such purposes as the MC thinks fit.</li> </ul>		
2.	✧ <b><u>Paragraph 1(2)</u></b> The MC Chairman of the MC shall convene an OC general meeting at the request of not less than 5% of the owners for the purposes specified by such owners within 14 days of receiving such request, and hold the general meeting within 45 days of receiving such request.		

\* Please see paragraph 11 of the main paper for the proposed definition of large-scale maintenance projects.

**(B) Notice of Meeting<sup>1</sup>**

	<b>Procedural Arrangements</b>	<b>Please “√” if Complied With</b>	<b>Reason(s) for Deviation</b>
<b>(I) Time of Giving Notice</b>			
3.	✧ <b><u>Paragraph 2(1)</u></b> The MC Secretary shall, at least 14 days before the date of the OC meeting, give notice of the meeting to each owner and the tenants’ representative (if any).		
	👍 <b><i>For large-scale maintenance projects</i></b> * – The notice of meeting should be given to all owners at least 21 days before the holding of the meeting.		
<b>(II) Content of the Notice</b>			
4.	✧ <b><u>Paragraph 2(1AA)</u></b> The notice of meeting shall specify – (a) the date, time and place of the meeting; and the resolutions (if any) that are to be proposed at the meeting or other matters that are to be discussed at the meeting.		
	👍 If the meeting is held at the request of not less than 5% of the owner (see item <b>A2</b> above), discussion items requested by the owners should be handled first on the agenda.		
	👍 The notice of the meeting should attach a blank proxy instrument (see item <b>C(II)</b> below on form of proxy instrument) and information on where the proxy form is available (e.g. the management office).		
	👍 The notice of the meeting should state clearly – (a) the specified statutory time within which the proxy instruments should be		

<sup>1</sup> Paragraph 3(7) of Schedule 3 to the BMO provides that no resolution passed at any OC meeting shall have effect unless the same was set forth in the notice given in accordance with paragraph 2 of Schedule 3 to the BMO or is ancillary or incidental to a resolution or other matter so set forth. Nothing in paragraph 3(7) of Schedule 3 to the BMO shall preclude the passing of a resolution as amended in an OC meeting.

\* Please see paragraph 11 of the main paper for the proposed definition of large-scale maintenance projects.

	<b>Procedural Arrangements</b>	<b>Please “√” if Complied With</b>	<b>Reason(s) for Deviation</b>
	<p>lodged (see item <b>C(I)</b> on proxy below);                      (b) the method and location for lodging the proxy instruments (e.g. the exact location of proxy collection boxes); and the timing and location for inspecting and counting the proxy instruments.</p>		
	<p>👉 <b><i>For large-scale maintenance projects</i></b> * –                      The notice of the meeting should carry a conspicuous “alert” that decision(s) to be taken at the OC meeting may result in the contribution of funds exceeding a certain specified amount by each owner.</p>		
<b>(III) Mode of Giving Notice</b>			
5.	<p>✧ <b><u>Paragraph 2(1A)</u></b>                      The notice of meeting may be given –                      (a) by delivering it personally to the owner or tenants’ representative (if any); or                      (b) by sending it by post to the owner or tenants’ representative (if any) at his last known address; or                      (c) by leaving it at the flat of the owner or tenants’ representative (if any) or depositing it in the letter box for that flat.</p>		
6.	<p>✧ <b><u>Paragraph 2(2)</u></b>                      The MC Secretary shall, at least 14 days before the date of the OC meeting, display the notice of meeting in a prominent place in the building.</p>		
	<p>👉 <b><i>For large-scale maintenance projects</i></b> * –                      The MC Secretary shall, at least 21 days before the date of the OC meeting, display the notice of meeting in a prominent place in the building.</p>		

\* Please see paragraph 11 of the main paper for the proposed definition of large-scale maintenance projects.

(C) **Proxy**

	<b>Procedural Arrangements</b>	<b>Please “√” if Complied With</b>	<b>Reason(s) for Deviation</b>
<b>(I) <i>Timing for Lodging Proxy Instruments</i></b>			
7.	<p>✧ <b><u>Paragraph 4(3)</u></b> The proxy instrument should be lodged with the MC Secretary at least 48 hours before the meeting.</p>		
	<p>👉 Owners should lodge the proxy instrument at least 72 hours before the meeting to allow time for determination of the validity of proxy instruments (see item <b>C(VII)</b> below).</p>		
	<p>👉 To cater for cases where the owners are not residing in the building and do not intend to appoint proxy, the MC Secretary should prepare a register for them to sign.</p>		
<b>(II) <i>Form of Proxy Instrument</i></b>			
8.	<p>✧ <b><u>Paragraph 4(2)</u></b> The instrument appointing a proxy shall be in the form set out in Form 2 in Schedule 1A, and –</p> <p>(a) shall be signed by the owner; or</p> <p>(b) if the owner is a body corporate, shall, notwithstanding anything to the contrary in its constitution, be impressed with the seal or chop of the body corporate and signed by a person authorised by the body corporate in that behalf.</p>		
	<p>👉 The instrument appointing a proxy should contain the following information –</p> <p>(a) the date of the OC meeting and a unique serial number to help ensure that the owner knows at which meeting the appointed proxy will exercise the voting right on his behalf and facilitate checking;</p>		

\* Please see paragraph 11 of the main paper for the proposed definition of large-scale maintenance projects.

	<b>Procedural Arrangements</b>	<b>Please “√” if Complied With</b>	<b>Reason(s) for Deviation</b>
	(b) a statement of purposes in respect of the collection of personal data of owners;		
	(c) explanatory notes to remind owners the importance of their voting right;		
	(d) reminder to owners to set out their contact details (e.g. telephone number, e-mail address, etc) so as to facilitate checking when the validity of the proxy instrument is in doubt;		
	(e) explanatory notes to remind owners that they may include their voting instructions to the proxy;		
	(f) explanatory notes to remind the proxy to countersign the proxy instrument, and to advise the proxy that the percentage of owners appointing him should not exceed 5% of the owners;		
	(g) explanatory notes to remind the proxy to make a declaration that the proxy instruments they hold are honestly procured from the respective owners concerned and they will faithfully and accurately exercise the said owners’ voting instructions, if any.		
<b><i>(III) Collection and Safekeeping of Proxy Instruments</i></b>			
9.	☞ The timing and location for collecting, inspecting and counting the proxy instruments should be convenient to all owners.		
	☞ If the property management company (PMC) or the management office assists the MC Secretary in collecting the proxy instruments, the MC Secretary should give clear instructions to the PMC or the management office on the submission deadline and the collection method.		

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	<b>Procedural Arrangements</b>	<b>Please “√” if Complied With</b>	<b>Reason(s) for Deviation</b>
	<p>☞ The MC Secretary should remind the owners to lodge with him the original proxy instrument signed by the owner(s).</p>		
	<p>☞ The proxy collection boxes (if any) should be double-locked and placed in a prominent place of the building. The two keys should be held by the MC Secretary and a third party (e.g. a mediator, an auditor or a lawyer) respectively.</p>		
	<p>☞ The proxy instruments received before the close of the lodging time should be kept in a safe place designated by the MC.</p>		

***(IV) Opening of Proxy Instrument Collection Box***

10.	<p>☞ Owners and OCs may appoint a third party, e.g. a mediator, to monitor the opening of the collection boxes of proxy instruments, and the determination of the validity of proxy instruments (see item <b>C(VII)</b> below), especially during the process leading to the appointment of an MC and the formation of an OC.</p>		
	<p>☞ The collection box of proxy instruments should be opened by the two key holders, i.e. the MC Secretary and a third party (e.g. a mediator, an auditor or a lawyer) in the presence of witnesses.</p>		
	<p>☞ To allow time for the determination of the validity of proxy instruments (see item <b>C(VII)</b> below), the MC Secretary and the third party should open the collection box at suitable intervals in the presence of witnesses.</p>		

\* Please see paragraph 11 of the main paper for the proposed definition of large-scale maintenance projects.

	Procedural Arrangements	Please “✓” if Complied With	Reason(s) for Deviation
<b>(V) Acknowledgement of Receipt of Proxy Instruments</b>			
11.	<p>✧ <b><u>Paragraph 4(5)(a)(i)</u></b>                      The MC Secretary shall acknowledge receipt of all proxy instruments received by leaving a receipt at the flat of the owner who made the proxy instrument, or depositing the receipt in the letter box for that flat, before the time for the holding of the meeting.</p>		
	<p>☞ The MC Secretary, on passing a receipt of proxy instrument to the owner, should issue a copy of the proxy instrument to facilitate verification by the owner concerned.</p>		
	<p>☞ The MC Secretary should send the acknowledgement receipt of the proxy instrument to the correspondence address provided by the owner if the owner concerned does not reside at the building.</p>		
<b>(VI) Display of Information related to Proxies</b>			
12.	<p>✧ <b><u>Paragraph 4(5)(a)(ii)</u></b>                      The MC Secretary shall display information of the owner’s flat with proxy instruments lodged in a prominent place in the place of the meeting <u>before the holding of the meeting</u>, and cause the information to remain so displayed until the conclusion of the meeting.</p>		
	<p>☞ After the close of the lodging time, the MC Secretary should display the following information in a <u>prominent place of the building(s)</u> in a clear and easily readable format with appropriate font size <u>at least 24 hours before the meeting until seven days after the meeting</u> to facilitate checking by the owners; where feasible, additional means of dissemination of the above information (e.g. posting onto the website of the OC) to</p>		

\* Please see paragraph 11 of the main paper for the proposed definition of large-scale maintenance projects.

	<b>Procedural Arrangements</b>	<b>Please “✓” if Complied With</b>	<b>Reason(s) for Deviation</b>
	facilitate checking and enhance transparency – (a) those flats with proxy instruments lodged;		
	(b) the name of any person holding proxies of 5% of the owners (and any person, whether attending in person or appointing proxy, holding 5% or more of the aggregate shares); and		
	(c) a suitable indication against the flat of the owner concerned whose proxy instrument is considered invalid by the MC Chairman.		
	☞ On the list displayed, the MC Secretary should remind the owners to check the displayed information, with a view to finding out if there is any unauthorised appointment of proxy.		
	☞ The MC Secretary should display the register of owners who have indicated their intention not to appoint proxies. (see item <b>C(I)</b> above)		
<b><i>(VII) Determination of the Validity of Proxy Instruments</i></b>			
13.	✧ <b><u>Paragraph 4(4) and (5)(b)</u></b> The MC Chairman or, if he is absent, the person who presides at the meeting, shall determine the validity of the proxy instrument. In so doing, he / she should ensure that an instrument appointing a proxy is only valid if it is lodged in accordance with the BMO requirements in items <b>C7</b> and <b>C8</b> above.		
	☞ The MC Chairman should handle the proxy instruments in a fair and transparent manner and in accordance with the provisions under the BMO.		

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	<b>Procedural Arrangements</b>	<b>Please “✓” if Complied With</b>	<b>Reason(s) for Deviation</b>
	<p>☞ The MC Secretary should assist the MC Chairman to contact the owners concerned for verification of the validity of the proxy instruments as soon as practicable, and in any event no later than the time of the holding of the meeting, if there is any query or uncertainty arising from the proxy instruments.</p>		
	<p>☞ If there are two or more proxy instruments with different dates for the purpose of a particular OC meeting, the proxy instrument with the most recent date would supersede the one with an earlier date. If in doubt, the MC Chairman should contact the owner(s) concerned.</p>		
	<p>☞ The MC Chairman should verify with the owner concerned in the following scenarios –</p> <ul style="list-style-type: none"> <li>(a) more than one proxy instrument is received from the same owner for the same OC meeting;</li> <li>(b) more than one proxy instrument is received from the same owner and no date is marked, or the proxy instruments are marked with the same date but with different proxies.</li> </ul>		
	<p>☞ Proxy instruments should be considered as invalid if their validity cannot be ascertained after the MC Chairman has taken some reasonable steps to ascertain their validity.</p>		
	<p>☞ If the MC Chairman has determined that certain proxy instruments are invalid before the meeting and time permits, he may contact the owner(s) concerned to explain the invalidity of the proxy instrument so that the owner(s) concerned may consider whether a fresh proxy instrument should be made or to</p>		

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	<b>Procedural Arrangements</b>	<b>Please “√” if Complied With</b>	<b>Reason(s) for Deviation</b>
	attend the meeting in person. [ <b>Note</b> that any fresh proxy instrument shall be lodged with the Secretary at least 48 hours before the meeting in accordance with paragraph 4(3) of Schedule 3 to the BMO.]		
	👉 The MC Chairman should announce the number of invalidated proxy instruments before the OC meeting.		
	👉 The reasons for invalidation should be marked on each proxy instrument and the owners, owners’ representatives and the appointed third party should be allowed to inspect the proxy instruments the validity of which has been determined by the MC Chairman and to appeal against the MC Chairman’s determination with justifications.		
<b><i>(VIII) Actions after the Conclusion of the OC Meeting</i></b>			
14.	✧ <b><u>Paragraph 4(6)</u></b> The MC shall keep all the instruments for the appointment of proxies that have been lodged with the MC Secretary for a period of at least 12 months after the conclusion of the meeting.		
	👉 The MC shall keep all proxy instruments and the declaration (see item <b>C8(g)</b> above) for at least 3 years.		

\* Please see paragraph 11 of the main paper for the proposed definition of large-scale maintenance projects.

**(D) Presiding at an OC Meeting**

	<b>Procedural Arrangements</b>	<b>Please “√” if Complied With</b>	<b>Reason(s) for Deviation</b>
15.	<p>✧ <b><u>Paragraph 3(1)</u></b>                      An OC meeting shall be presided over by –</p> <ul style="list-style-type: none"> <li>(a) the MC Chairman;</li> <li>(b) in the absence of the MC Chairman, the MC Vice-chairman (if any); or</li> <li>(c) in the absence of the MC Chairman and the MC Vice-chairman (if any), a person appointed by the owners present at the meeting from amongst themselves.</li> </ul>		

**(E) Quorum**

	<b>Procedural Arrangements</b>	<b>Please “√” if Complied With</b>	<b>Reason(s) for Deviation</b>
16.	<p>✧ <b><u>Paragraph 5(1)</u></b>                      The quorum at an OC meeting shall be –</p> <ul style="list-style-type: none"> <li>(a) 20% of the owners, in the case of a meeting at which a resolution for the dissolution of the MC under section 30 of the BMO is proposed; or</li> <li>(b) 10% of the owners in any other case.</li> </ul>		
	<p>👉 <b><i>For large-scale maintenance projects</i></b> * –                      For the passage of resolutions on “large-scale maintenance projects”, the quorum of the meeting should be 20% of the owners. At least 10% of the owners have to attend personally at the meeting.</p>		

\* Please see paragraph 11 of the main paper for the proposed definition of large-scale maintenance projects.

(F) **Voting at an OC Meeting**

	<b>Procedural Arrangements</b>	<b>Please “√” if Complied With</b>	<b>Reason(s) for Deviation</b>
17.	<p>✧ <b><u>Paragraph 3(3)</u></b>                      All matters arising at an OC meeting at which a quorum is present shall be decided by a majority of the votes of the owners voting either personally or by proxy, except –</p> <p>(a) appointment of MC Chairman, Vice-chairman (if any), Secretary, Treasurer and Member at an OC general meeting, which shall be made by using the “first past the post” voting system;</p> <p>(b) change of name of the OC which shall be decided by a resolution passed by not less than 75% of the votes of the owners at an OC general meeting.</p>		
18.	<p>✧ <b><u>Paragraph 3(4)</u></b>                      If there is an equality of votes the person presiding over the meeting shall have, in addition to a deliberative vote, a casting vote.</p>		
19.	<p>✧ <b><u>Paragraph 3(5)(a)</u></b>                      At any meeting of the OC an owner shall, unless the deed of mutual covenant (DMC) (if any) otherwise provides, have one vote in respect of each share which he owns.</p>		
20.	<p>✧ <b><u>Paragraph 3(5)(b)</u></b>                      Where 2 or more persons are the co-owners of a share, the vote in respect of the share may be cast –</p> <p>(a) by a proxy jointly appointed by the co-owners;</p> <p>(b) by a person appointed by the co-owners from amongst themselves; or</p> <p>(c) if no appointment is made, either by one of the co-owners personally or by a proxy appointed by one of the co-owners.</p>		

\* Please see paragraph 11 of the main paper for the proposed definition of large-scale maintenance projects.

	<b>Procedural Arrangements</b>	<b>Please “√” if Complied With</b>	<b>Reason(s) for Deviation</b>
21.	<p>✧ <b><u>Paragraph 3(5)(c)</u></b>            Where 2 or more persons are the co-owners of a share and more than one of the co-owners seeks to cast a vote in respect of the share, only the vote that is cast, whether personally or by proxy, by the co-owner whose name, in order of priority, stands highest in relation to that share in the register kept at the Land Registry shall be treated as valid.</p>		
22.	<p>✧ <b><u>Paragraph 3(6)</u></b>            If a registered mortgagee is in possession of an owners’ flat, such mortgagee shall, to the exclusion of the owner, be entitled to exercise the voting rights of such owner.</p>		

**(G) Procedure at an OC Meeting**

	<b>Procedural Arrangements</b>	<b>Please “√” if Complied With</b>	<b>Reason(s) for Deviation</b>
23.	<p>✧ <b><u>Paragraph 7</u></b>            The procedure at a general meeting shall be as is determined by the OC.</p>		

**(H) Minutes of an OC Meeting**

	<b>Procedural Arrangements</b>	<b>Please “√” if Complied With</b>	<b>Reason(s) for Deviation</b>
24.	<p>✧ <b><u>Paragraph 6(1)</u></b>            The MC Secretary shall keep minutes of the proceedings at every OC general meeting.</p>		
	<p>✧ The votes cast by owners personally and those by proxy should be recorded separately in the minutes.</p>		

\* Please see paragraph 11 of the main paper for the proposed definition of large-scale maintenance projects.

	<b>Procedural Arrangements</b>	<b>Please “√” if Complied With</b>	<b>Reason(s) for Deviation</b>
25.	✧ <b><u>Paragraph 6(2)</u></b> The minutes shall be certified by the person presiding over the meeting as containing a true record of the proceedings of the general meeting to which they relate.		
26.	✧ <b><u>Paragraph 6(3)</u></b> The MC Secretary shall display the certified minutes in a prominent place in the building within 28 days of the date of the general meeting to which the minutes relate, and cause the minutes to remain so displayed for at least 7 consecutive days.		
	👉 <b><i>For large-scale maintenance projects</i></b> * – The minutes of MC and OC meetings at which large-scale maintenance projects are decided should be delivered to the letterboxes of the building owners or be emailed to the email addresses of the owners (whichever applicable) within 28 days of the date of the meeting.		
27.	✧ <b><u>Paragraph 6A(1)</u></b> The certified minutes shall be kept by the MC for such period, being not less than 6 years, as the OC may determine.		

**Additional Note on Reason(s) for Deviation (if any) [Use additional page if necessary]**

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Signature of DMC Manager/PMC: _____	Signature of MC Chairman: _____
Name of DMC Manager/ PMC: _____	Name of MC Chairman: _____
Date: _____	Date: _____

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\* Please see paragraph 11 of the main paper for the proposed definition of large-scale maintenance projects.

## **Building Management Support Measures**

### **(I) Building Management Professional Advisory Service Scheme Phase 3 (BMPASS Phase 3)**

We will launch BMPASS Phase 3 on 1 April 2017 to enhance support for owners of old buildings, and assist owners of “three nil” buildings in forming OCs, and support OCs in discharging their responsibilities. All remaining eligible buildings will be covered by BMPASS Phase 3 which will run for three years.

### **(II) Free Mediation Service for Building Management**

2. HAD, in collaboration with the Hong Kong Mediation Centre and the Hong Kong Mediation Council, launched in March 2015 a 2-year Free Mediation Service Pilot Scheme for Building Management. Having reviewed the effectiveness of the Scheme, we have regularised the Scheme as “Free Mediation Service for Building Management” with effect from 1 March 2017. Teams of mediators will be arranged to provide a maximum of 15 hours free professional mediation services for the parties concerned who would like to resolve the disputes on building management through mediation. The Service will be extended to cover disputes between OCs / owners and commercial users of the buildings.

### **(III) Free Legal Advice Service on Building Management**

3. In the course of daily building management, owners may encounter various legal matters, e.g. the interpretation of the BMO and the DMC, the powers and responsibilities of an OC, apportionment of building maintenance fee and management fee, etc. To provide assistance to owners and concerned bodies, HAD, in collaboration with the Law Society of Hong Kong, will continue to provide the Free Legal Advice Service on Building Management.

### **(IV) Panel of Advisors on Building Management Disputes**

4. The objective of the Panel of Advisors on Building Management Disputes (the Panel) is to help resolve complicated building management

disputes. The Panel comprises professionals of different background (including lawyers, accountants, surveyors and property managers, etc.), with rich experience in building management matters. Upon referral from a District Office, the HAD will arrange one convenor and two members from the Panel to study the case in detail, and offer neutral and professional advice to the parties concerned to help resolve the dispute.

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