

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1282/19-20

Ref : CB2/SS/4/19

**Paper for the House Committee meeting on 3 July 2020**

**Report of the Subcommittee on Property Management Services Ordinance  
(Commencement) Notice 2020 and Property Management Services  
(Licensing and Related Matters) Regulation**

**Purpose**

This paper reports on the deliberations of the Subcommittee on Property Management Services Ordinance (Commencement) Notice 2020 and Property Management Services (Licensing and Related Matters) Regulation ("the Subcommittee").

**Background**

Establishment and functions of the Property Management Services Authority

2. The Property Management Services Ordinance (Cap. 626) ("PMSO") was enacted by the Legislative Council on 26 May 2016. The Property Management Services Authority ("PMSA") is a body corporate established under section 42(1) of PMSO. According to section 43 of PMSO, the principal functions of PMSA are:

- (a) to regulate and control the provision of property management services ("PMSs") in Hong Kong by the licensing of property management companies ("PMCs") and property management practitioners ("PMPs");
- (b) to promote the integrity, competence and professionalism of the profession of PMSs; and
- (c) to maintain and enhance the status of the profession of PMSs.

### Licensing framework

3. PMSO provides for a single-tier licensing regime of PMCs. A PMC has to fulfil all the licensing criteria, including the minimum number of employees holding PMP licences, the suitability of the company in holding PMC licence, etc.
4. PMSO also provides for a two-tier licensing regime of PMPs. Only those PMPs who take up a supervisory or managerial role in the provision of PMSs in a licensed PMC will be subject to licensing. Frontline staff will not be required to obtain PMP licences. The PMP licensing criteria are set in terms of academic qualifications, professional qualifications and years of work experience.

### **The Property Management Services Ordinance (Commencement) Notice 2020 (L.N. 86)**

5. On 22 May 2020, the Administration published in the Gazette the Property Management Services Ordinance (Commencement) Notice 2020 (L.N. 86) ("the Commencement Notice"). The Commencement Notice was tabled at the Council meeting of 27 May 2020. It is made by the Secretary for Home Affairs under section 1(2) of PMSO to appoint:

- (a) 1 August 2020 as the day on which the uncommenced provisions (except section 6(1)(a), (2)(a) and (3)(a)) of PMSO come into operation;<sup>1</sup> and
- (b) 1 August 2023 as the day on which section 6(1)(a), (2)(a) and (3)(a) of PMSO comes into operation.

6. According to the Administration, the deferred commencement of section 6(1)(a), (2)(a) and (3)(a) of PMSO is to allow a transitional period for PMCs

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<sup>1</sup> By the Property Management Services Ordinance (Commencement) Notice 2016 and the Property Management Services Ordinance (Commencement) Notice 2018, certain provisions relating to the establishment of the Property Management Services Authority and the imposition of levies came into operation on 24 October 2016 and 1 July 2018 respectively. The uncommenced provisions mainly relate to the control and regulation of property management services, the licensing of property management companies ("PMCs") and property management practitioners ("PMPs"), and in particular, the prohibition under section 6(1)(a), (2)(a) and (3)(a) of the Property Management Services Ordinance (Cap. 626) against any person acting as a PMC or a PMP without a licence.

and PMPs to apply for the respective licences. The three-year transitional period proposed by the Administration was noted by the then Bills Committee on the Property Management Services Bill during its deliberations.<sup>2</sup>

### **The Property Management Services (Licensing and Related Matters) Regulation (L.N. 87)**

7. The Property Management Services (Licensing and Related Matters) Regulation (L.N. 87) ("the Regulation") was gazetted on 22 May 2020. The Regulation is a new regulation made by PMSA under sections 3(1), 15(1), 16(3), 17(2) and 47(8) of, and section 5(1) of Schedule 4 to, PMSO. The Regulation contains 14 sections and four Schedules, and provides for the following matters relating to the control and regulation of PMSs and the licensing of PMCs and PMPs:

- (a) the types of PMSs falling within the seven categories of services set out in Schedule 1 to PMSO (e.g. general management services, management of the environment, and repair, maintenance and improvement) (Schedule 1);
- (b) the fees payable for the application for issue or renewal of PMC or PMP licences and for other matters including extension of licence validity and copying of the PMC or PMP (Tier 1 or Tier 2) register (Schedule 2);
- (c) the information that must be contained in and the documents that must accompany an application for a PMC licence or a PMP (Tier 1 or Tier 2) licence, provisional PMP (Tier 1 or Tier 2) licence (collectively "PMP licences") or its renewal (sections 4 and 5);
- (d) the respective criteria for holding PMC licences (e.g. engagement of a specified number of licensed PMPs) and PMP licences (e.g. requisite academic qualification and work experience) (sections 6 to 9);
- (e) the conditions that may be imposed on PMC and PMP licences (sections 10 to 12);

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<sup>2</sup> Members may refer to the report of the then Bills Committee on the Property Management Services Bill [LC Paper No. CB(2)701/15-16] for further details.

- (f) the information that must be provided to clients by a licensed PMC and the manner for providing such information (section 13 and Schedule 3); and
- (g) the matters (including information relating to the compliance with the criteria for holding a licence) in which a licensee must notify PMSA in writing of any change (section 14 and Schedule 4).

8. The Regulation was tabled at the Council meeting of 27 May 2020. The Regulation will come into operation on 1 August 2020.

### **The Subcommittee**

9. The House Committee agreed on 29 May 2020 that a subcommittee should be formed to study the Commencement Notice and the Regulation. The membership list of the Subcommittee is in the **Appendix**. Under the chairmanship of Hon Holden CHOW Ho-ding, the Subcommittee held one meeting with the Administration.

10. To allow more time for the Subcommittee to report its deliberations to the House Committee, the Subcommittee agreed to move a proposed resolution at the Council meeting of 24 June 2020 to extend the period of scrutiny of the Commencement Notice and the Regulation to the Council meeting of 15 July 2020. As the proposed resolution was not dealt with at the Council meeting of 24 June 2020, the scrutiny period of the Commencement Notice and the Regulation expired at the said Council meeting.

### **Deliberations of the Subcommittee**

11. While members support the commencement dates of the uncommenced provisions of PMSO as set out in the Commencement Notice and the licensing regime as provided in the Regulation, they have expressed concern on various issues, in particular the provision of various categories of PMSs by licensed PMCs, engagement of licensed PMPs by licensed PMCs and transitional arrangement for in-service PMPs. Members have also urged PMSA to explain in detail the licensing regime to members of the property management industry, so as to facilitate its smooth implementation. Details of the Subcommittee's major deliberations are set out in the ensuing paragraphs.

Provision of various categories of property management services by licensed property management companies

12. Members note that, under PMSO, a PMC that engages in more than one of the seven categories of PMSs as set out in Schedule 1 to PMSO is required to obtain a PMC licence. Members also note that, under the licensing regime, PMSs under Category 1 are general services relating to property management provided pursuant to a deed of mutual covenant ("DMC") for owners, residents, tenants, users or visitors, and PMSs falling within Categories 2 to 7 are services relating to a particular area, such as finance and asset management, facility management and human resources management.

13. Members have expressed concern that, under the licensing regime, licensed PMCs which only have experience in the provision of PMSs under Categories 2 to 7 could also provide PMSs under Category 1 and serve as DMC managers although they might not have the relevant qualifications or expertise. Members have pointed out that the property management industry is worried that such an arrangement might have an adverse impact on the quality of PMSs under Category 1. Members have also considered that the categories of PMSs provided by a licenced PMC should be clearly stated on the PMC licence to facilitate clients, such as owners' corporations, to choose suitable PMCs for provision of various PMSs.

14. PMSA has advised that under the licensing regime, a licensed PMC must engage a certain number of licensed PMPs. PMPs who assume a managerial or supervisory role in a licensed PMC are required to hold a PMP licence. PMPs are required to meet the criteria in relation to academic qualification, professional qualification and work experience in order to obtain a PMP licence. Such requirements will ensure that licensed PMPs will be able to provide various PMSs, including PMSs under Category 1.

15. PMSA has further advised that PMSO empowers PMSA to monitor the performance of licensed PMCs/PMPs through various means, including investigating into complaints involving disciplinary offences, and taking disciplinary actions against non-compliant PMCs and PMPs, etc. In addition, PMSA will maintain registers of licensed PMCs, PMPs (Tier 1) and PMPs (Tier 2) at its office and on its website for public inspection. These registers will contain information such as property management portfolio of a licensed PMC, number of licensed PMPs employed by a licensed PMC and conviction records of licensees in relation to disciplinary offences or criminal offences under PMSO. Members of the public may make reference to these registers in choosing PMCs for provision of various PMSs.

Engagement of licensed property management practitioners by licensed property management companies

16. Members note that, under the licensing regime, licensed PMCs must engage a certain number of licensed PMPs that meets the minimum manning ratios specified by PMSA. Members have urged PMSA to explain to PMCs the minimum manning ratios of licensed PMPs in licensed PMCs, and draw up clear administrative guidelines, in particular for small and medium-sized PMCs, to set out the minimum number and the grades of staff who will be required to obtain PMP licences under the licensing regime.

17. PMSA has advised that, under the licensing regime, a licensed PMC must engage at least one licensed PMP (Tier 1) for every 3 000 flats or below under its management, and at least one licensed PMP (Tier 2) for every 1 500 flats or below under its management. Only those PMPs who take up a supervisory or managerial role in the provision of PMSs in a licensed PMC will be subject to licensing. Frontline staff will not be required to obtain PMP licences. The qualification requirements for licensed PMP (Tier 1) will be more stringent than those for licensed PMP (Tier 2). The minimum manning ratios of licensed PMPs in licensed PMCs are published on PMSA's website. PMSA has undertaken to explain to PMCs the minimum manning ratios of licensed PMPs in licensed PMCs.

Transitional arrangement for in-service property management practitioners

18. Regarding members' concern about the transitional arrangement for in-service PMPs for meeting the licensing requirements, PMSA has advised that for in-service PMPs who possess relevant work experience in the provision of PMSs for properties in Hong Kong at managerial or supervisory level but do not meet the academic and/or professional qualifications required for holding a PMP licence, there will be a three-year transitional period for them to apply for and be issued with a provisional licence which will be valid up to a maximum period of three years. Upon completion of a course specified by PMSA within the validity period of the provisional licence, PMPs may apply for a formal licence. As regards the tuition fees of the specified course, PMSA has advised that according to the information provided by four institutions, the tuition fees will be in the range of about \$13,000 to \$19,000 for a licensed PMP (Tier 1) course and about \$9,300 to \$12,500 for a licensed PMP (Tier 2) course. The duration of the course will be about six months on average.

19. Members take the view that licensed PMCs should bear the tuition fees of the above specified course for their in-service PMPs to alleviate the financial burden on the latter. PMSA has advised that it has discussed with some PMCs

the provision of subsidies to in-service PMPs to attend the above specified course, and these PMCs are in general willing to subsidize the tuition fees of their in-service PMPs. PMSA has added that PMPs might also claim reimbursement of the tuition fees of the specified course under the Continuing Education Fund.

#### Qualifications accepted by the Property Management Services Authority

20. Section 8(1)(b)(i)(A) to (C) of the Regulation specifies the requisite academic qualifications for holding PMP (Tier 2) licences, and section 8(1)(b)(i)(D) of the Regulation gives PMSA the discretion to accept any other qualification as one of the criteria for holding PMP (Tier 2) licences. The Legal Adviser to the Subcommittee has enquired about the factors that PMSA would take into account when considering whether the qualifications other than those stipulated in section 8(1)(b)(i)(A) to (C) of the Regulation are acceptable.

21. PMSA has advised that it might accept qualifications such as five statements of attainment for the clusters of units of competency at Level 4 for the property management industry which are obtained through the Recognition of Prior Learning mechanism under the Hong Kong Qualifications Framework. PMSA has added that the qualifications accepted by PMSA would not be lower than the qualifications specified in section 8(1)(b)(i)(A) to (C) of the Regulation.

#### **Recommendation**

22. The Subcommittee has no objection to the Commencement Notice and the Regulation, and will not propose any amendment to them.

#### **Advice Sought**

23. Members are invited to note the deliberations of the Subcommittee.

**Subcommittee on Property Management Services Ordinance  
(Commencement) Notice 2020 and Property Management Services  
(Licensing and Related Matters) Regulation**

**Membership list**

Chairman	Hon Holden CHOW Ho-ding
Members	Hon Abraham SHEK Lai-him, GBS, JP Hon Paul TSE Wai-chun, JP Hon CHAN Han-pan, BBS, JP Hon KWOK Wai-keung, JP Hon SHIU Ka-fai, JP  (Total : 6 members)
Clerk	Ms Wendy JAN
Legal adviser	Ms Clara TAM