



# How to form an **Owners' Corporation** and achieve effective building management

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**BUILDING MANAGEMENT ORDINANCE**  
(Chapter 344)



Home Affairs Department

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# Chapter 1 INTRODUCTION

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## CHAPTER 344 BUILDING MANAGEMENT ORDINANCE

1.1 The Ordinance was first enacted in June 1970 and was extensively amended in May 1993. The short title was changed from the ‘Multi-storey Buildings (Owners Incorporation) Ordinance’ to ‘Building Management Ordinance’. Further amendments to the Ordinance were also made in March 1998 and June 2000.

1.2 The Ordinance aims to facilitate the incorporation of owners of flats in private buildings, to provide for the management of buildings and for matters connected therewith. The Ordinance also provides a legal framework for the formation and operation of owners’ corporations.

## BUILDING MANAGEMENT (AMENDMENT) ORDINANCE 2000

1.3 On 27 June 2000, the Legislative Council enacted the Building Management (Amendment) Ordinance 2000 (the Amendment Ordinance). Except for provisions relating to the purchase of mandatory third party liability insurance, the other provisions under the Amendment Ordinance have commenced operation from 1 August 2000. The main points of the Amendment Ordinance are —

- (a) owners may form owners’ corporations more conveniently;
- (b) the authority may prepare, revise and issue Codes of Practice on Building Management and Maintenance;
- (c) the authority may implement mandatory building management measures for buildings having serious management and maintenance problems;
- (d) accounts of owners’ corporations shall be audited by qualified accountants; and
- (e) owners’ corporations shall purchase third party liability insurance.

1.4 Moreover, the Amendment Ordinance also made amendments to provisions relating to notice of meeting, appointment of proxies for jointly-owned flats and termination of building manager’s appointment by an owners’ corporation.



## WHAT ARE THE DEFINITIONS OF “OWNER”, “BUILDING”, “DEED OF MUTUAL COVENANT”, “SHARE” AND “AUTHORITY” IN THE ORDINANCE?

1.5 An “owner” means —

- (a) a person who for the time being appears from the records at the Land Registry to be the owner of an undivided share in land on which there is a building; and
- (b) a registered mortgagee in possession of such share.

Interpretation of “owner”.  
s.2

1.6 A “building” means —

- (a) any building which contains any number of flats comprising 2 or more levels, including basements or underground parking areas;
- (b) any land upon which that building is erected; and
- (c) any other land (if any) which —
  - (i) is in common ownership with that building or land; or
  - (ii) in relation to the appointment of a management committee under Part II of the Ordinance or any application in respect thereof, is owned or held by any person for the common use, enjoyment and benefit (whether exclusively or otherwise) of the owners and occupiers of the flats in that building.

Interpretation of “building”.  
s.2

1.7 This definition of “building” facilitates the formation of one owners’ corporation for a group of buildings and therefore facilitates unified management.

1.8 A “deed of mutual covenant” means a document which —

- (a) defines the rights, interests and obligations of owners among themselves; and
- (b) is registered in the Land Registry.

Interpretation of “deed of mutual covenant”.  
s.2

1.9 Generally, the deed of mutual covenant is a contract signed jointly by the developer, the first purchaser of the flat and the manager appointed by the deed of mutual covenant (if any). Once the deed has been registered in the Land Registry, it will become a statutory instrument with binding effect. The owner of the building and his/her successor in title will have to observe all the terms set out in the deed of mutual covenant.

1.10 A “share” means the share of an owner in a building determined in accordance with section 39.

Interpretation of “share”.  
s.2

- 1.11 Section 39 of the Ordinance stipulates that an owner’s share shall be determined —
- (a) in the manner provided in an instrument including a deed of mutual covenant (if any) which is registered in the Land Registry; or
  - (b) if there is no such instrument, or the instrument contains no such provision, then in the proportion which his undivided share in the building bears to the total number of shares into which the building is divided.

Determination of  
owner’s shares.  
s.39

1.12 The “Authority” means the Secretary for Home Affairs.

Interpretation of  
“Authority”.  
s.2

## Chapter 2      **FORMATION OF AN OWNERS' CORPORATION**

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### **HOW IS THE MANAGEMENT COMMITTEE OF AN OWNERS' CORPORATION FORMED?**

2.1 Owners may, in accordance with section 3, 3A, 4 or 40C of the Ordinance, convene a meeting of owners to form an owners' corporation and to appoint a management committee. In normal circumstances, a meeting of owners to appoint a management committee will be convened under section 3 of the Ordinance.

#### Section 3

2.2 A meeting of the owners to appoint a management committee may be convened by —

- (a) any person managing the building in accordance with the deed of mutual covenant (if any); or
- (b) any other person authorized to convene such a meeting by the deed of mutual covenant (if any); or
- (c) the owners of not less than 5% of the shares.

Convening a meeting of owners. s. 3(1)

2.3 At a meeting convened under section 3(1), a management committee may be appointed —

- (a) in accordance with the deed of mutual covenant, if the deed provides for the appointment of a management committee; or
- (b) if there is no deed of mutual covenant, or the deed contains no provision for the appointment of a management committee, by a resolution of the owners of not less than 30% of the shares.

Appointment of a management committee. s. 3(2)

#### Section 3A

2.4 When there are practical difficulties to appoint a management committee by following section 3, the owners may consider applying to the Secretary for Home Affairs, in accordance with section 3A, to make an order that a meeting of owners shall be convened by the applicant owners. This application has to be made by the owners of not less than 20% of the shares in the building.

Meeting by order of Secretary for Home Affairs. s.3A

2.5 However, even when the Secretary for Home Affairs approves the application and makes the order in accordance with section 3A, the order will be of no effect if the Secretary for Home Affairs receives notice(s) of objection from owner(s) holding not less than 20% of the shares in the building not less than 7 days before the date of meeting.

2.6 At the meeting of owners convened under section 3A, a management committee can be appointed by a resolution passed by a majority of votes of the owners voting either personally or by proxy.

#### Section 4

2.7 Another method of convening a meeting of owners is by applying to the Lands Tribunal (Tribunal) to make an order that a meeting of the owners to appoint a management committee shall be convened by such owners as the Tribunal may direct. This application has to be made by the owners of not less than 10% of the shares in the building.

Meeting by order of Tribunal.  
s.4

2.8 At the meeting of owners convened under section 4, a management committee can be appointed by a resolution passed by a majority of votes of the owners voting either personally or by proxy.

#### Section 40C

2.9 Section 40C of the Ordinance is only applied when it appears to the Secretary for Home Affairs that mandatory building management is required for buildings with serious management and maintenance problems.

2.10 The Tribunal may, upon application of the Secretary for Home Affairs, order that a meeting of owners be convened by such owners as shall be named in the order to pass a resolution which appoints a management committee.

Meeting by order of Tribunal.  
s.40C(1)

2.11 At the meeting of owners convened under section 40C with a quorum of not less than 10% of the owners, a management committee or a building management agent can be appointed by a resolution passed by a majority of votes of the owners voting either personally or by proxy.

Quorum of meeting.  
s.40C(3)(a)

### **HOW TO SERVE THE NOTICE OF A MEETING OF OWNERS ?**

2.12 For a meeting of owners convened under section 3, 3A, 4 or 40C, a notice of the meeting shall be served upon each owner and any person referred to in section 3(1)(a) or (b) not less than 14 days before the date of the meeting by the convenor(s).

Notice of meeting.  
s.5(1)

2.13 The convenor(s) may serve the notice personally upon each owner or by post addressed to each owner at his last known address, or by leaving the notice at the owner's flat or depositing the notice in his letter box. In addition, the convenor(s) is(are) also required to display the notice in a prominent place in the building and to publish the notice in a newspaper published in Hong Kong. A list of newspapers for such purpose specified by the Secretary for Home Affairs has been published in the Gazette. Owners can check the list in the District Offices, the Building Management Resource Centres or the Homepage on Building Management (at <http://www.buildingmgt.gov.hk>) of the Home Affairs Department.

How notice is given.  
s.5(2)

Notice published in newspaper.  
s.5(3)

2.14 The notice of a meeting shall specify the date, time and place of such meeting, the resolutions which are to be proposed in the meeting and, in particular, the resolution for the appointment of a management committee.

What notice must specify.  
s.5(4)

## VOTING AT A MEETING OF OWNERS

2.15 At a meeting convened under section 3, 3A, 4 or 40C —

- (a) each owner shall, save where the deed of mutual covenant otherwise provides, have one vote in respect of each share which he owns;
- (b) a vote may be cast either personally or by a proxy appointed in accordance with paragraph 4(2) of the Third Schedule; and
- (c) if a share is jointly owned by 2 or more persons, the vote in respect of that share may be cast —
  - (i) by a proxy jointly appointed by the co-owners; or
  - (ii) by one co-owner appointed by the others; or
  - (iii) if no appointment has been made under subparagraph (i) or (ii), then either personally or by proxy by one of the co-owners; and, in the case of any meeting where more than one of the co-owners seeks to cast a vote in respect of the share, only the vote that is cast, in person 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.

Voting by owners or by proxy.  
s.5(5)

2.16 To vote by proxy, an owner must make sure that he appoints a proxy in writing to vote on his behalf, and that the instrument appointing the proxy is lodged with the person or one of the persons, as the case may be, who convened the meeting not less than 24 hours before the time for the holding of the meeting at which the proxy proposes to vote, or within such lesser time as the person presiding at the meeting shall allow.

Procedure in regard to instrument appointing proxy.  
s.5(6)



2.17 For the purposes of the application of section 5 (notice of and voting at meetings) to meetings held under section 40C —

- (a) the references in section 5 to an “owner” shall be construed as references to a person who is an owner of any particular percentage of the total number of shares into which the building is divided;
- (b) section 5(5)(a) shall apply to a meeting to be held under section 40C, as if the words “shall have one vote” were substituted for “shall, save where the deed of mutual covenant otherwise provides, have one vote in respect of each share which he owns”;
- (c) section 5(5)(c) shall apply as if it were deleted and the following substituted —
  - “(c) in the case of joint ownership, the vote may be cast —
  - (i) by a proxy jointly appointed by the co-owners;
  - (ii) by one co-owner appointed by the others; or
  - (iii) if no appointment has been made under subparagraph (i) or (ii), then either personally or by proxy by one of the co-owners; and, in the case of any meeting where more than one of the co-owners seeks to cast a vote, only the vote that is cast, in person or by proxy, by the co-owner whose name, in order of priority, stands highest in the register kept at the Land Registry shall be treated as valid.”.

Application of s.5 to meetings held under s.40C. s.5A

2.18 Schedule 11 (Appendix VII) shall have effect with respect to the enumeration of the percentage of owners referred to in the provisions of the Ordinance specified in that Schedule in the case where, in those provisions as so specified, a reference to a percentage of the owners is —

- (a) to be construed as a reference to the total expressed percentage of the number of persons who are owners without regard to their ownership of any particular percentage of the total number of shares into which the building is divided; and
- (b) not to be construed as the owners of the total expressed percentage of the shares.

Enumeration of owners. s.5B

## HOW THE CHAIRMAN, VICE-CHAIRMAN (IF POST SPECIFIED IN DMC), SECRETARY, TREASURER AND MEMBERS OF THE MANAGEMENT COMMITTEE ARE APPOINTED ?

2.19 The number of persons to be appointed as members of the management committee depends on the number of flats in the building. At the meeting for appointment of the management committee, the owners will choose the members and appoint the office holders for the posts of chairman, vice-chairman (if post specified in DMC), secretary and treasurer. Details of the composition and procedure of the management committee are expressly provided in the Second Schedule to the Ordinance (Appendix I).

Composition of management committee; rules and procedure governing its operation.  
Second Schedule

## HOW ABOUT TENANTS ?

2.20 Tenants are entitled to form an association to represent their interests. In order to elect among themselves one representative (the tenants' representative) for appointment to the management committee, the association has to be approved by the Secretary for Home Affairs or an authorized officer under section 15 as an "approved association".

Tenants' representative as member of management committee.  
s.15

## CAN THE OFFICE HOLDERS OF A MANAGEMENT COMMITTEE RECEIVE ALLOWANCE ?

2.21 The chairman, vice-chairman, secretary, treasurer and other office holders of the management committee may receive an allowance approved by the corporation by resolution passed at a general meeting. The maximum amount per month for each office holder will be —

Allowance for office holders of management committee.  
s.18 and Fourth Schedule

- |   |          |
|---|----------|
| (a) For a building of not more than 50 flats: | \$ 600   |
| (b) For a building of 51-100 flats:           | \$ 900   |
| (c) For a building of more than 100 flats:    | \$ 1,200 |

## HOW IS A CORPORATION REGISTERED ?

2.22 Within 28 days of appointment, the management committee must apply to the Land Registrar for the owners to be registered as a corporation under the Ordinance. Their application shall be in a specified form and must enclose —

Management committee to apply for registration of owners as a corporation.  
s.7

- (a) a copy of the registered deed of mutual covenant of the building if there is one;
- (b) the original whole page of the newspaper containing the notice;

- (c) a copy of the resolution or other document certified as correct by the chairman or secretary of the management committee or by the chairman of the meeting at which the resolution was passed; and
- (d) a declaration by the chairman or secretary of the management committee, in such form as the Land Registrar may specify, that the provisions of section 3, 3A, 4 or 40C and relevant provisions in section 5, 5A or 5B of the Ordinance have been complied with.

2.23 Where the meeting of owners is held following an application to the Secretary for Home Affairs, a copy of the order of the Secretary for Home Affairs must also be enclosed. s.7(3)(aa)

2.24 Where the meeting of owners is held following an application to the Lands Tribunal, a copy of the order of the Tribunal must also be enclosed. s.7(3)(b)

2.25 If the Land Registrar is satisfied that all is in order, he will register the owners as a corporation. Land Registrar to register owners' corporation. s.8

2.26 Generally, the expenses incurred for the formation of the corporation can be reimbursed by the management committee of the registered corporation.

## OBTAINING OF FURTHER INFORMATION AND THE NECESSARY FORMS

2.27 Copies of the specified forms for registration of owners' corporation can be obtained from the Reports-on-Title and Owners Incorporation Section of the Land Registry (28th floor, Queensway Government Offices, 66 Queensway, Hong Kong) or the Search Offices of the Land Registry in the New Territories. Copies of the specified forms for changes in particulars of owners' corporations can be obtained from the Customer Centre of the Land Registry (19th floor, Queensway Government Offices), the Reports-on-Title and Owners Incorporation Section or the Search Offices of the Land Registry in the New Territories. The above forms can also be downloaded from the Land Registry's web site at <http://www.landreg.gov.hk/>.

## Chapter 3 WORK OF AN OWNERS' CORPORATION

### POWERS AND DUTIES OF CORPORATION

3.1 With effect from the date the certificate of registration of the corporation is issued to the owners by the Land Registrar, the rights, powers, privileges and duties of the owners in relation to the common parts of the building shall be exercised and performed by the corporation. Thus, the corporation will be liable in law for all the liabilities of the individual owners in relation to the common parts of the building.

Rights of owners to be exercised by corporation. s.16

3.2 The corporation is legally responsible for keeping the common parts of the building in a state of good management and serviceable repair condition. To this end, the corporation shall do all things reasonably necessary for the enforcement of the obligations contained in the deed of mutual covenant (if any) for the management of the building. The corporation may engage a manager or other professional trade or professionals to carry out on behalf of the corporation any of the duties or powers of the corporation under the Ordinance or the deed of mutual covenant (if any). The corporation in the performance of its duties and the exercise of its power under section 18 shall be guided by the Codes of Practice issued by the Secretary for Home Affairs under section 44(1).

Duties and powers of corporation. s.18

3.3 Subject to the Ordinance, the powers and duties conferred or imposed by the Ordinance on a corporation shall be exercised and performed on behalf of the corporation by the management committee.

Management committee to perform duties and exercise powers of corporation. s.29

3.4 A management committee shall meet at least once in every period of 3 months.

Meeting of management committee. Second Schedule para. 7

3.5 The management committee shall report the corporation's business to the owners at regular intervals. To this end, the management committee is required to arrange for the first annual general meeting (AGM) of the corporation within 15 months of the date of registration of the owners as corporation, and one AGM at an interval of every 12 to 15 months. For meetings and procedure of the corporation, please refer to the Third Schedule to the Ordinance (Appendix II).

Annual General Meeting. Third Schedule para. 1(1)

3.6 Once the provisions relating to the purchase of mandatory third party liability insurance under the Building Management (Amendment) Ordinance 2000 will come into force, the corporation shall procure and keep in force the third party liability insurance in relation to the building and all parts thereof (including the common parts and the property of the owners' corporation).

## BUDGETS AND ACCOUNTS

3.7 In order to finance its operation, the corporation must set up a general fund, and one of the first tasks of the management committee of the corporation will be to decide the amount that owners shall contribute for this purpose. In addition, the corporation may establish and maintain a contingency fund to provide for deficiencies in the general fund or unexpected expenditure.

Establishment of funds of corporation.  
s.20

3.8 The corporation shall prepare an annual budget and it is based on this budget that the amount to be paid by individual owner is determined. The Fifth Schedule lists out the provisions in relation to the preparation of annual budget (Appendix III).

Annual Budget.  
Fifth Schedule

3.9 (a) a management committee shall maintain proper books or records of account and other financial records and shall prepare, not later than 15 months after the date of the registration of the corporation and thereafter every 12 months, an income and expenditure account and a balance sheet which shall both be signed by the chairman and the secretary or the treasurer of the management committee and laid before the corporation at the annual general meeting of the corporation convened in accordance with paragraph 1(1) of the Third Schedule;

Accounts of corporation.  
s.27(1)

(b) except in the case of a corporation incorporated in respect of a building which contains not more than 50 flats, the income and expenditure account and balance sheet referred to in paragraph (a) shall be audited by an accountant retained by the corporation as may be approved by the corporation by a resolution passed at a general meeting and that accountant shall report as to whether such account and balance sheet present fairly the financial transactions of the corporation during the period to which the income and expenditure account and balance sheet relate; and the financial position of the corporation at the end of that period, subject to such qualification, if any, as he may think fit;

Corporation shall retain accountant to audit its account.  
s.27(1A)

(c) in paragraph (b), “flats” (單位) does not mean any garage, carpark or carport;

Flats.  
s.27(1B)

(d) within 1 month after each consecutive period of 3 months, or such shorter period as the management committee may select, the treasurer shall prepare a summary of the income and expenditure of the corporation in respect of that period and shall display a copy of it in a prominent place in the building;

Preparation and display of a summary of income and expenditure.  
Sixth Schedule para.2

(e) all books and records of account and other financial records shall be kept by the management committee for at least 6 years. For the relevant provisions, please refer to the Sixth Schedule to the Ordinance (Appendix IV).

Maintenance of financial records.  
s.27(4)



3.10 The management committee of the corporation shall permit an owner or any person authorized in writing by an owner to inspect the books of account at any reasonable time.

Request to inspect the books of account by owner. s.27(2)

3.11 An owner or any person duly authorized in writing by an owner may request in writing the corporation to supply him with copies of an income and expenditure account and balance sheet or a summary of the income and expenditure of the corporation. The treasurer shall, on the payment of reasonable copying charge as the management committee may determine, supply such copies to that person.

Request for copies of financial records by owner. Sixth Schedule para. 3

## **WHAT ARE THE MANDATORY TERMS IN DEEDS OF MUTUAL COVENANT ?**

3.12 The Seventh Schedule to the Ordinance introduces mandatory terms into deeds of mutual covenant —

Mandatory terms added to deeds of mutual covenant. Seventh Schedule

- (a) Determination of total amount of management expenses;
- (b) Keeping of accounts by manager;
- (c) Manager to maintain bank account;
- (d) Manager to establish and maintain a special fund;
- (e) Contracts entered into by manager;
- (f) Resignation of manager;
- (g) Termination of manager's appointment by owners' corporation; and
- (h) Obligations after manager's appointment ends.

The details are at Appendix V.

## **WHAT AVENUES ARE OPEN TO THE OWNERS IF THEY ARE DISSATISFIED WITH THE WORK OF THE MANAGEMENT COMMITTEE ?**

3.13 Owners may put forth their views to the management committee directly and ask it to make improvement.

3.14 The chairman of the management committee shall convene a 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.

Request to convene meeting. Third Schedule para. 1(2)

3.15 If the controversy over building management remains unsettled, the owners may request the Lands Tribunal to determine any proceedings that may be deemed necessary.

Determination of proceedings by Tribunal. s.45

## CODE OF PRACTICE ON PROCUREMENT OF SUPPLIES, GOODS AND SERVICES

3.16 Both the manager and owners' corporation are required to follow the standards and guidelines laid down in the Code of Practice on Procurement of Supplies, Goods and Services specified by the Secretary for Home Affairs. Invitation to tender should be adopted whenever the amount of supplies, goods and services to be procured exceeds or is likely to exceed a specified sum.

Code of Practice.  
s.20A(1), s.44(1)  
& Seventh  
Schedule para. 5

## CODE OF PRACTICE ON BUILDING MANAGEMENT AND MAINTENANCE

3.17 The owners' corporation is required to follow the standards and guidelines in respect of management and safety laid down in the Code of Practice on Building Management and Maintenance specified by the Secretary for Home Affairs including standards and practices relating to —

Code of Practice.  
s.44(1)

- (a) building management;
- (b) building safety;
- (c) fire safety;
- (d) slope safety;
- (e) lifts and escalators; and
- (f) utilities and other installations in the common parts of a building.

3.18 The Code of Practice on Procurement of Supplies, Goods and Services and the Code of Practice on Building Management and Maintenance are obtainable from District Offices and Building Management Resource Centres, or can be downloaded from the Homepage on Building Management (at <http://www.buildingmgt.gov.hk>) of the Home Affairs Department.

## JURISDICTION OF THE LANDS TRIBUNAL IN RELATION TO BUILDING MANAGEMENT

3.19 The Lands Tribunal shall have jurisdiction to hear and determine any proceedings specified in the Tenth Schedule (Appendix VI). Forms used in connection with the commencement of proceedings are available, free of charge, from the Registrar of the Lands Tribunal at Lands Tribunal Building, 38 Gascoigne Road, Kowloon (Tel. no: 2170 3819-22).

Jurisdiction of  
Tribunal.  
s.45

## Chapter 4 MANDATORY BUILDING MANAGEMENT

### APPOINTMENT OF BUILDING MANAGEMENT AGENT BY ORDER OF AUTHORITY

4.1 Where it appears to the Authority in the case of any building having a management committee that —

- (a) no person is, for the time being, managing that building;
- (b) the management committee has, in any material particular, failed substantially to perform the duties of a corporation under section 18 including without limitation, the duty of a corporation under subsection (2A) of that section to have regard to and be guided by Codes of Practice; and
- (c) by reason of the circumstances mentioned in paragraphs (a) and (b), there is a danger or risk of danger to the occupiers or owners of the building,

the Authority may order that, within such reasonable period as shall be specified in the order, the management committee must appoint a building management agent for the purposes of managing that building.

4.2 Where a management committee without reasonable excuse fails to comply with an order made under section 40B(1), every member of the management committee shall be guilty of an offence and shall be liable on conviction to a fine at level 5 and in the case of a continuing offence, to a further daily fine of \$1,000 for each day during which the offence continues, unless he can prove —

- (a) that the offence was committed without his consent or connivance; and
- (b) that he has exercised all such due diligence to prevent the commission of the offence as he ought to have exercised in the circumstances.

4.3 In sections 40B, 40C and 40D, “building management agent” (建築物管理代理人) means a person appointed from a list of persons engaged in the business of the management of buildings compiled from time to time by the Authority and published in the Gazette. The list of building management agents is obtainable from District Offices and Building Management Resource Centres, or can be downloaded from the Homepage on Building Management (at <http://www.buildingmgt.gov.hk>) of the Home Affairs Department.

Appointment  
of building  
management  
agent by order  
of Authority.  
s.40B

## APPOINTMENT OF BUILDING MANAGEMENT AGENT BY ORDER OF TRIBUNAL

4.4 Where upon the application of the Authority it appears to the Tribunal in the case of any building that —

- (a) a management committee has not been and is not likely to be appointed under section 3,3A or 4, notwithstanding an order of the Tribunal made under section 4;
- (b) no person is, for the time being, managing that building; and
- (c) the Authority is satisfied that by reason of the circumstances mentioned in paragraphs (a) and (b), there is a danger or risk of danger to the occupiers or owners of the building,

the Tribunal may order that, within such reasonable period as shall be specified in the order, a meeting of owners must be convened by such owner as shall be named in the order to deal with the matters referred to in section 40C(2) for the purposes of managing that building.

4.5 The matters referred to in section 40C(1) are, consecutively —

- (a) to consider and, if thought fit, to pass a resolution which appoints a management committee;
- (b) where that resolution is not passed, to consider and, if thought fit, to pass a resolution which appoints a building management agent,

for the purposes of managing that building.

4.6 Notwithstanding anything to the contrary in the deed of mutual covenant, if any, the appointment of —

- (a) a management committee under section 40C(2)(a) shall be deemed to be effected if at the meeting of owners convened under that subsection a resolution in favour of that appointment is passed by a majority vote of the owners voting either personally or by proxy at a meeting with a quorum of not less than 10% of the owners; and for the purposes of that meeting, any proxy appointed by an owner for the purposes of voting on that resolution shall be treated as being an owner present at the meeting for the purposes of establishing that quorum;
- (b) a building management agent under section 40C(2)(b) shall be deemed to be effected if —

Appointment  
of building  
management  
agent by order  
of Tribunal.  
s.40C

- (i) a resolution in favour of that appointment is passed at a meeting of the owners in the manner described in paragraph (a); or
- (ii) where a resolution of the description mentioned in subparagraph (i) is not passed, by appointment, directly, by the owner named in the order made under section 40C(1).

4.7 A meeting to be held under section 40C shall be convened in accordance with section 40C(3)(a) and notice of any such meeting may be served by the owner named in the order made under section 40C(1).

## **WHAT ELSE DOES THE ORDINANCE DEAL WITH ?**

4.8 The Ordinance also covers the following matters not detailed in this book :

- (a) insurance of common parts of the building (section 28);
- (b) dissolution of management committee and appointment of an administrator (sections 30 and 31);
- (c) winding up of corporations and liability of owners (sections 33 and 34);
- (d) penalty for improper use of “Incorporated Owners” (section 35); and
- (e) penalty for false statement or information (section 36).



## **Chapter 5 ASSISTANCE PROVIDED BY THE HOME AFFAIRS DEPARTMENT**

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### **ROLE OF THE HOME AFFAIRS DEPARTMENT**

5.1 The Home Affairs Department (HAD) has all along been assisting owners of multi-storey buildings to incorporate themselves and form OCs. An OC is a statutory body on building management registered under the Building Management Ordinance (BMO). It possesses an independent status and the requisite powers of a corporate body. Under the BMO, the management committee of an OC is vested with powers and responsibilities by the OC to handle matters relating to management and administration of the common parts of the building, including repair works for the building, maintenance of fire safety equipment, as well as insurance, cleanliness and security arrangements.

5.2 To encourage private property owners to form OCs and make arrangements relating to building management, staff of the HAD and District Offices (DOs) are always prepared to offer advice and assistance to owners on the formation of OCs. Members of District Building Management Liaison Teams (DBMLTs) under the DOs will visit private buildings in the district to ascertain those considered feasible for OC formation. They will also introduce to owners the good practices of managing their buildings, as well as give them guidance and advice on the procedures of OC formation. In addition, staff of DOs will maintain contacts with the OCs after their formation, handle enquiries and complaints relating to building management, assist law-enforcement departments in building maintenance work and fire safety improvement, as well as help resolve disputes between owners, OCs and management companies. The HAD and DOs also arrange, on a regular basis, training courses, seminars, talks and workshops on building management to provide training to members of management committees of OCs. Educational and publicity activities, including roving exhibitions on building management and production of a series of educational video tapes on building management, maintenance and insurance issues, are organized to promote and enhance owners' awareness of proper and effective building management. For details of the services in respect of building management rendered by the HAD, please visit the HAD Homepage on Building Management at <http://www.buildingmgt.gov.hk>.

### **ASSISTING OWNERS IN THE FORMATION OF OWNERS' CORPORATIONS**

5.3 Owners of private buildings incorporate themselves to form OCs in accordance with the BMO. In the course of setting up an OC, staff of DOs will provide owners with assistance as follows :

- (a) Exempting meeting convenors from payment in obtaining a copy of owners' records

In order to form an OC, owners of a building have to convene an owners' meeting to appoint a management committee. In this connection, meeting convenors will need to obtain the records of all owners in their building for the purpose of giving notice of meeting and verifying the identity of attendees in the OC formation meeting. Owners' record is public information obtainable by paying a fee at the Land Registry. However, to encourage owners to form OCs, the HAD will issue one exemption certificate to each building to alleviate the burden on owners. Each building will only be issued with the exemption certificate once. For whatever reason there is the need for subsequent search of owners' records after the issuance of the exemption certificate, owners will have to bear their own cost.

- (b) Advice on OC formation procedures

Staff of DOs will advise meeting convenors on the proper procedures in OC formation. Owners will be reminded to take heed of the BMO and the relevant clauses under the deed of mutual covenant of their own building for the appointment of a management committee. The HAD has also produced a series of exhibition panels and video tapes on OC formation available for loan to the public free of charge. Application forms can be downloaded from the HAD Homepage on Building Management at <http://www.buildingmgt.gov.hk>.

- (c) Attendance at OC formation meetings

Staff of DOs will be pleased to attend OC formation meetings and give advice on the procedures of appointment of management committees to owners.

- (d) Handling applications lodged under section 3A

In the event that the owners of a building fail to appoint a management committee in accordance with section 3 of the BMO, owners holding an aggregate of not less than 20% of the undivided shares can apply to the Secretary for Home Affairs for an order for convening an owners' meeting under section 3A of the BMO. Staff of DOs will explain the application procedures and assist in handling the applications.

- (e) Professional advice

If owners have questions on legal issues in the course of their formation of an OC, they may approach any one of the Building Management Resource Centres established by the HAD for free preliminary professional advice from duty lawyers by appointments.

- (f) Providing checklist on procedures of meeting and samples of notice of meeting and proxy

The HAD has prepared a checklist on procedures of meeting, specimen formats of notice of meeting, notice to be published in a newspaper and proxy for the purpose of convening an owners' meeting (Appendices VIII-X) for reference by meeting convenors.

## BUILDING MANAGEMENT RESOURCE CENTRES

5.4 The HAD has established four Building Management Resource Centres (BMRCs) in Hong Kong, Kowloon, New Territories West and New Territories East to provide information, services and advice to building owners, residents, owners' corporations, mutual aid committees and management bodies so as to assist them in improving the standards of management, safety and maintenance of their buildings. As at 31 August 2003, seven professional bodies related to building management have deployed their members to offer free expert advice at the Centres through appointments. The addresses of the BMRCs are as follows :

	<u>Address</u>	<u>Telephone</u>
Building Management Resource Centre (Hong Kong)	Unit 5, G/F., The Center, 99 Queen's Road Central	2186 8111
Building Management Resource Centre (Kowloon)	G/F., 2 Mau Lam Street, Yau Ma Tei	2332 9113
Building Management Resource Centre (New Territories West)	1/F., Tsuen Wan Station Multi-storey Carpark Building, 174-208 Castle Peak Road, Tsuen Wan	3515 5806
Building Management Resource Centre (New Territories East)	Room 510, 5/F., Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin	2158 5433

The information given in this book, based on the provisions of the Building Management Ordinance, serves the purpose of providing reference only. It does not have legal effect. Therefore, it is important that members of the public are to refer to the Ordinance as and when necessary to ensure that they comply with the relevant provisions. If owners or owners' corporations have questions on legal matters regarding building management, they should seek advice from legal practitioners.

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## COMPOSITION AND PROCEDURE OF MANAGEMENT COMMITTEE

1. The management committee shall —
  - (a) if there is no deed of mutual covenant or the deed does not specify the number of persons which is to constitute the management committee —
    - (i) consist of not less than 3 persons where the building contains not more than 50 flats; or
    - (ii) consist of not less than 7 persons where the building contains more than 50 flats but not more than 100 flats; or
    - (iii) consist of not less than 9 persons where the building contains more than 100 flats; or
  - (b) if there is a deed of mutual covenant which specifies the number of persons which is to constitute the management committee, and that number is greater than the minimum number of persons specified in subparagraph (a)(i), (ii) or (iii) in respect of the number of flats referred to in those sub-subparagraphs, consist of that greater number of persons; or
  - (c) if there is a deed of mutual covenant which specifies the number of persons which is to constitute the management committee, but that number is less than the minimum number of persons specified in subparagraph (a)(i), (ii) or (iii) in respect of the number of flats referred to in those sub-subparagraphs, consist of not less than the number of persons specified in subparagraph (a)(i), (ii) or (iii), as the case may be; and
  - (d) include the tenants' representative (if any) appointed under section 15(1).
  
- 1A. In paragraph 1, “flats” (單位) does not mean any garage, carpark or carport.
  
2. (1) Subject to subparagraph (2), the owners shall, at a meeting convened under section 3, 3A, 4 or 40C —
  - (a) appoint —
    - (i) in the case of a meeting convened under section 3, from amongst themselves, or in accordance with the deed of mutual covenant (if any), the members of the management committee; or
    - (ii) in any other case, from amongst themselves, the members of the management committee;
  - (b) appoint a chairman of the management committee, being one of the persons appointed as a member of the management committee;
  - (c) appoint a vice-chairman of the management committee if that office (howsoever named) is specified in a deed of mutual covenant (if any), being one of the persons appointed as a member of the management committee;

(d) appoint a secretary of the management committee who may, but need not be, one of the persons appointed as a member of the management committee;

(e) appoint a treasurer of the management committee who may, but need not be, one of the persons appointed as a member of the management committee,

and may, at such meeting, appoint (in addition to the holders of the offices referred to in sub-subparagraphs (b), (c), (d) and (e)) one or more members of the management committee to hold such other offices as may be specified in the deed of mutual covenant (if any) and which the owners determine to be necessary in respect of the control, management and administration of the building.

(2) The tenants' representative appointed under section 15(1) shall be deemed to be appointed by the owners as a member of the management committee.

3. Subject to section 14 and paragraph 4, the members of the management committee appointed at a meeting convened under section 3, 3A, 4 or 40C shall hold office until a new management committee is appointed and assumes office at the second annual general meeting of the corporation.

4. (1) No person shall be appointed, or be deemed to be appointed, as a member of a management committee who —

(a) has been declared bankrupt;

(b) has entered into composition with his creditors;

(c) has at any time been sentenced to imprisonment for 3 months or more.

(2) A member of a management committee shall cease to be a member of the committee if he —

(a) becomes disqualified for appointment as a member of a management committee under sub-paragraph (1);

(b) becomes incapacitated by physical or mental illness;

(c) absents himself from 3 or more consecutive meetings of the management committee without the consent of the management committee;

(d) resigns his office, by notice in writing delivered to the secretary of the management committee;

(da) in the case of a person deemed to be appointed under paragraph 2(2) in his capacity as the tenants' representative, ceases to be an occupier of a flat;

(e) ceases to be an owner, if appointed in his capacity as an owner, or ceases to be qualified to be a member according to the deed of mutual covenant (if any), as the case may be; or

(f) is removed from office by resolution of the corporation.

5. (1) At the second annual general meeting of a corporation convened in accordance with paragraph 1 (1)(b) of the Third Schedule and thereafter at every alternate annual general meeting, all members of the management committee, other than the member (if any) deemed to be appointed under paragraph 2(2) in his capacity as the tenants' representative, shall retire from office.



(2) At an annual general meeting of a corporation at which the management committee retires under sub-paragraph (1) the corporation shall, in accordance with this Ordinance, appoint —

- (a) a new management committee which shall include the tenants' representative (if any) appointed under section 15(1);
- (b) a chairman of the management committee;
- (ba) a vice-chairman of the management committee if that office (howsoever named) is specified in a deed of mutual covenant (if any);
- (c) a secretary of the management committee, if the office of secretary of the management committee is vacant;
- (d) a treasurer of the management committee, if the office of treasurer of the management committee is vacant,

and may, at such annual general meeting, appoint (in addition to the holders of the offices referred to in sub-subparagraphs (b), (ba), (c) and (d)) one or more members of the management committee to hold such other offices as may be specified in the deed of mutual covenant (if any) and which the corporation determines to be necessary in respect of the control, management and administration of the building.

(3) Members of the management committee who retire under sub-paragraph (1) shall be eligible for re-appointment under sub-paragraph (2).

5A. A member of a management committee who ceases to be a member of the committee under paragraph 4(2) or retires from office under paragraph 5(1) and does not seek re-appointment to the committee shall, within 14 days of his ceasing to be a member or of his retirement, as the case may be, hand over to the secretary or, if the secretary is not readily available, any other member of the management committee any books or records of account, papers, documents and other records in respect of the control, management and administration of the building together with any movable property belonging to the corporation that are under his control or in his custody or possession.

6. (1) Subject to subparagraphs (1A) and (1B), a casual vacancy occurring in a management committee may be filled by the management committee.

(1A) A casual vacancy caused by the tenants' representative ceasing to be a member of the management committee for whatever reason may be filled by the approved association (within the meaning of section 15(2) ) appointing a new tenants' representative under section 15(1).

(1B) If a casual vacancy occurs in the office of the chairman or vice-chairman (if any) of a management committee —

- (a) the corporation may, by a resolution passed at a general meeting of the corporation convened by the management committee for that purpose under paragraph 1(1)(c) of the Third Schedule, appoint an owner to fill the vacancy till the next annual general meeting of the corporation; or
- (b) in the case where no general meeting of the corporation has been so convened, the members of the management committee may instead appoint from amongst themselves an owner to act as chairman or vice-chairman, as the case may be, till the next annual general meeting of the corporation.

(2) If a casual vacancy occurs in any other office of a management committee, the management committee may appoint an owner or any other person to fill the vacancy till the next annual general meeting.

7. A management committee shall meet at least once in every period of 3 months.

8. (1) A meeting of a management committee —

(a) may be convened at any time by the chairman or the vice-chairman (if any) in the absence of the chairman; and

(b) shall be convened by the secretary, at the request of any 2 members thereof, within 14 days of receiving such request.

(2) Notice of a meeting of the management committee shall be served by the secretary upon each member of the management committee at least 7 days before the date of the meeting and every such notice shall specify the place, date and time of such meeting and the resolutions (if any) that are to be proposed.

(2A) Service of a notice required to be served under subparagraph (2) may be effected —

(a) personally upon the member of the management committee; or

(b) by post addressed to the member of the management committee at his last known address; or

(c) by leaving the notice at the member's flat or depositing the notice in his letter box.

(3) If a management committee resolves that it shall meet at specified intervals and the resolution specifies the place, dates or days and times of such meetings, the secretary shall serve a copy of such resolution, and a copy of any subsequent resolution of the management committee affecting the same, upon each member of the management committee by such means as are referred to in subparagraph (2A)(a), (b) or (c), and subparagraph (2) shall not apply in the case of any such meeting.

9. The quorum at a meeting of the management committee shall be 50% of the members of the management committee (rounded up to the nearest whole number) or 3 such members, whichever is the greater.

10. (1) A meeting of a management committee shall be presided over by —

(a) the chairman; or

(aa) in the absence of the chairman, the vice-chairman (if any); or

(b) in the absence of the chairman and the vice-chairman (if any), a member appointed as chairman for that meeting by the management committee.

(2) All acts, matters or things authorized or required to be done by the management committee may be decided by a resolution passed by a majority of the votes of members of the management committee present at a meeting of the management committee.

(3) At a meeting of the management committee, each member present shall have one vote on a question before the committee and if there is an equality of votes the person presiding over the meeting shall have, in addition to a deliberative vote, a casting vote.

(4) The secretary shall keep minutes of the proceedings at every meeting of a management committee.

(4A) The minutes referred to in subparagraph (4) shall be certified by the person presiding over the meeting as containing a true record of the proceedings of the meeting of the management committee to which they relate.

(4B) The minutes certified in accordance with subparagraph (4A) shall, within 28 days of the date of the meeting of the management committee to which they relate, be displayed by the secretary in a prominent place in the building.

(5) Subject to this Ordinance, the procedure at meetings of a management committee shall be as is determined by the management committee.

11. (1) Notwithstanding any provision in a deed of mutual covenant to the contrary, where an owner or other person, being a body corporate, is appointed as a member of a management committee under this Schedule that body corporate may appoint a director or other officer of that body or some other individual to act as its representative (“authorized representative” (獲授權代表)) for the purposes of this Ordinance as if the authorized representative were a member of the management committee in his own right and, if so appointed, paragraph 4(2)(a), (b), (c), (d) and (f) shall apply to the authorized representative.

(2) If an authorized representative ceases to be a member of a management committee under paragraph 4(2)(a), (b), (c), (d) or (f) the body corporate may appoint another authorized representative in his place.

12. In the event of any inconsistency between this Schedule and the terms of a deed of mutual covenant or any other agreement, this Schedule shall prevail.

## MEETINGS AND PROCEDURE OF CORPORATION

1. (1) The management committee shall convene —
  - (a) the first annual general meeting of a corporation not later than 15 months after the date of the registration of the corporation;
  - (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;
  - (c) a general meeting of the corporation at any time for such purposes as the management committee thinks fit.(2) The chairman of the management committee shall convene a general meeting of the corporation 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.
  
2. (1) Notice of a meeting convened under paragraph 1 shall be served by the secretary of the management committee upon each owner and upon the tenants' representative (if any) at least 14 days before the date of the meeting.
  - (1A) Service of a notice required to be served under subparagraph (1) may be effected —
    - (a) personally upon the owner or tenants' representative (if any); or
    - (b) by post addressed to the owner or tenants' representative (if any) at his last known address;  
or
    - (c) by leaving the notice at his flat or depositing the notice in his letter box.
  - (2) Every notice referred to in sub-paragraph (1) shall specify —
    - (a) the place, date and time of the meeting;
    - (b) every resolution to be proposed or other matter to be discussed at the meeting.
  
3. (1) The chairman of the management committee appointed under paragraph 2(1)(b) or 5(2)(b), as the case may be, of the Second Schedule shall preside at a meeting of the corporation.
  - (2) If the chairman of the management committee is absent the vice-chairman of the management committee (if any) appointed under paragraph 2(1)(c) or 5(2)(ba), as the case may be, of the Second Schedule shall preside at a meeting of the corporation in his place or, failing him, the owners at a meeting shall appoint an owner as chairman for that meeting.
  - (3) Subject to section 10(1), all matters arising at a meeting of the corporation at which a quorum is present shall be decided by a majority of votes of the owners.
  - (4) If there is an equality of votes the person presiding over the meeting shall have, in addition to a deliberative vote, a casting vote.

- (5) (a) At any meeting of the corporation each owner shall, subject to the provisions of any instrument registered in the Land Registry and subject to sub-paragraph (6), have one vote in respect of each share which he owns.
- (b) If any share is jointly owned by two or more persons the vote in respect of that share may be cast —
- (i) by a proxy jointly appointed by the co-owners; or
  - (ii) by one co-owner appointed by the others; or
  - (iii) if no appointment has been made under sub-sub-subparagraph (i) or (ii), then either personally or by proxy by one of the co-owners; and, in the case of any meeting where more than one of the co-owners seeks to cast a vote in respect of the share, only the vote that is cast, in person or by proxy, by the co-owner whose name, in order of priority, stands highest in relation to that share in the register maintained under section 38 shall be treated as valid.

(6) If a registered mortgagee is in possession of an owner's flat, such mortgagee shall, to the exclusion of the owner, be entitled to exercise the voting rights of such owner.

(7) No resolution passed at any meeting of the corporation shall have effect unless the same was set forth in the notice served in accordance with paragraph 2 or is ancillary or incidental to a resolution or other matter so set forth.

(8) Nothing in sub-paragraph (7) shall preclude the passing of a resolution as amended at a meeting of a corporation.

4. (1) At a meeting of the corporation the votes of owners may be given either personally or by proxy.

(2) The instrument appointing a proxy shall be in writing signed by the owner, or if the owner is a body corporate, under the seal of that body.

(3) The appointment of a proxy shall have no effect unless the instrument appointing the proxy is lodged with the secretary of the management committee not less than 24 hours before the time for the holding of the meeting at which the proxy proposes to vote, or within such lesser time as the chairman shall allow.

5. (1) The quorum at a meeting of the corporation shall be —

(a) 20% of the owners, in the case of a meeting at which a resolution for the dissolution of the management committee under section 30 is proposed; or

(b) 10% of the owners in any other case.

(2) A proxy appointed in accordance with paragraph 4 to give the vote of an owner at a meeting of the corporation shall, for the purposes of establishing a quorum, be treated as being an owner present at that meeting.

6. (1) The secretary of the management committee shall keep minutes of the proceedings at every general meeting of the corporation.



(2) The minutes referred to in subparagraph (1) 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.

(3) The minutes certified in accordance with subparagraph (2) shall, within 28 days of the date of the general meeting to which they relate, be displayed by the secretary in a prominent place in the building.

7. The procedure at a general meeting shall be as is determined by the corporation.

8. In the event of any inconsistency between this Schedule and the terms of a deed of mutual covenant or any other agreement, this Schedule shall prevail.

9. For the purposes of paragraphs 1(2) and 5, the references in those paragraphs to a percentage “of the owners” shall —

(a) be construed as references to the total expressed percentage of the number of persons who are owners without regard to their ownership of any particular percentage of the total number of shares into which the building is divided; and

(b) not be construed as the owners of the total expressed percentage of the shares.

**ANNUAL BUDGET**

1. The amount to be determined by the management committee under section 21(1) shall be based upon a budget prepared by the management committee for the period specified by the management committee under that subsection.
2. The budget referred to in paragraph 1 shall set out the sums which in the opinion of the management committee will be reasonably necessary to meet payments of the kind specified in section 20(1) and shall, if a contingency fund is established under section 20(2), set out the sums which in the opinion of the management committee will be reasonably necessary to meet payments of the kind specified in that subsection.
3. A revised budget may be prepared if the management committee is of the opinion that any sum set out in a budget in respect of which the revised budget is to be prepared is insufficient to meet the proposed expenditure which that sum was intended to meet.
4. If the tenants' representative, an owner, a registered mortgagee or any person duly authorized in writing in that behalf by an owner or registered mortgagee requests in writing the corporation to supply him with copies of any budget referred to in this Schedule, the treasurer shall, on the payment of such reasonable copying charge as the management committee may determine, supply such copies to that person.
5. The treasurer shall, if requested by the Authority or an authorized officer and without raising any charge, supply the copies referred to in paragraph 4 to the Authority or that officer.

## ACCOUNTS

1. All bills, invoices, vouchers, receipts and other documents referred to in the books or records of account and other records maintained under section 27(1) shall be kept by the management committee for such period, being not less than 6 years, as the corporation may determine.
2. Within 1 month after each consecutive period of 3 months, or such shorter period as the management committee may select, the treasurer shall prepare a summary of the income and expenditure of the corporation in respect of that period and shall display a copy of it in a prominent place in the building.
3. If the tenants' representative, an owner, a registered mortgagee or any person duly authorized in writing in that behalf by an owner or registered mortgagee requests in writing the corporation to supply him with copies of —
  - (a) an income and expenditure account and balance sheet prepared under section 27(1); or
  - (b) a summary of the income and expenditure of the corporation prepared under paragraph 2,the treasurer shall, on the payment of such reasonable copying charge as the management committee may determine, supply such copies to that person.
4. The treasurer shall, if requested by the Authority or an authorized officer and without raising any charge, supply the copies referred to in paragraph 3 to the Authority or that officer.

**MANDATORY TERMS IN DEEDS OF MUTUAL COVENANT****1. Determination of total amount of management expenses**

(1) Subject to subparagraphs (3), (5), (6) and (8), the total amount of management expenses payable by the owners during any period of 12 months adopted by the manager of a building as the financial year in respect of the management of that building shall be the total proposed expenditure during that year as specified by the manager in accordance with subparagraph (2).

(2) In respect of each financial year, the manager shall —

- (a) prepare a draft budget setting out the proposed expenditure during the financial year;
- (b) send a copy of the draft budget to the owners' committee or, where there is no owners' committee, display a copy of the draft budget in a prominent place in the building;
- (c) send or display, as the case may be, with the copy of the draft budget a notice inviting each owner to send his comments on the draft budget to the manager within a period of 14 days from the date the draft budget was sent or first displayed;
- (d) after the end of that period, prepare a budget specifying the total proposed expenditure during the financial year;
- (e) send a copy of the budget to the owners' committee or, where there is no owners' committee, display a copy of the budget in a prominent place in the building.

(3) Where, in respect of a financial year, the manager has not complied with subparagraph (2) before the start of that financial year, the total amount of the management expenses for that year shall —

- (a) until he has so complied, be deemed to be the same as the total amount of management expenses (if any) for the previous financial year;
- (b) when he has so complied, be the total proposed expenditure specified in the budget for that financial year, and the amount that the owners shall contribute towards the management expenses shall be calculated and adjusted accordingly.

(4) Where a budget has been sent or displayed in accordance with subparagraph (2)(e) and the manager wishes to revise it, he shall follow the same procedures in respect of the revised budget as apply to the draft budget and budget by virtue of subparagraph (2).

(5) Where a revised budget is sent or displayed in accordance with subparagraph (4), the total amount of the management expenses for that financial year shall be the total expenditure or proposed expenditure specified in the revised budget and the amount that owners shall contribute towards the management expenses shall be calculated and adjusted accordingly.

(6) If there is a corporation and, within a period of 1 month from the date that a budget or revised budget for a financial year is sent or first displayed in accordance with subparagraph (2) or (4), the corporation decides, by a resolution of the owners, to reject the budget or revised budget, as the case may be, the total

amount of management expenses for the financial year shall, until another budget or revised budget is sent or displayed in accordance with subparagraph (2) or (4) and is not so rejected under this subparagraph, be deemed to be the same as the total amount of management expenses (if any) for the previous financial year, together with an amount not exceeding 10% of that total amount as the manager may determine.

(7) If any owner requests in writing the manager to supply him with a copy of any draft budget, budget or revised budget, the manager shall, on payment of a reasonable copying charge, supply a copy to that person.

(8) For the purposes of this paragraph, “expenditure” (開支) includes all costs, charges and expenses to be borne by the owners, including the remuneration of the manager.

## **2. Keeping of accounts**

(1) The manager shall maintain proper books or records of account and other financial records and shall keep all bills, invoices, vouchers, receipts and other documents referred to in those books and records for at least 6 years.

(2) Within 1 month after each consecutive period of 3 month, or such shorter period as the manager may select, the manager shall prepare a summary of income and expenditure in respect of that period and shall display a copy of it in a prominent place in the building.

(3) Within 2 months after the end of each financial year, the manager shall prepare an income and expenditure account and balance sheet for that year.

(4) Each income and expenditure account and balance sheet shall include details of the special fund required by paragraph 4 and an estimate of the time when there will be a need to draw on that fund, and the amount of money that will be then needed.

(5) The manager shall —

(a) permit any owner, at any reasonable time, to inspect the books or records of account and any income and expenditure account or balance sheet; and

(b) on payment of a reasonable copying charge, supply any owner with a copy of any record or document requested by him.

(6) If there is a corporation and the corporation decides, by a resolution of the owners, that any income and expenditure account and balance sheet should be audited by an accountant or by some other independent auditor as may be specified in that resolution, the manager shall without delay arrange for such an audit to be carried out by that person.

(7) The financial year may not be changed more than once in every 5 years, unless that change is previously approved by a resolution of the owners’ committee (if any).

## **3. Manager to maintain bank account**

(1) The manager shall maintain an interest-bearing account and shall use that account exclusively in respect of the management of the building.

(2) Subject to subparagraphs (3) and (4), the manager shall without delay pay all money received by him in respect of the management of the building into the account maintained under subparagraph (1).

(3) Subject to subparagraph (4), the manager may, out of money received by him in respect of the management of the building, retain or pay into a current account a reasonable amount to cover expenditure of a minor nature, but that amount shall not exceed such figure as is determined from time to time by a resolution of the owners' committee (if any).

(4) The retention of a reasonable amount of money under subparagraph (3) or the payment of that amount into a current account in accordance with that subparagraph and any other arrangement for dealing with money received by the manager shall be subject to such conditions as may be approved by a resolution of the owners' committee (if any).

(5) Any reference in this paragraph to an account is a reference to an account opened with a bank within the meaning of section 2 of the Banking Ordinance (Cap. 155), the title of which refers to the management of the building.

#### **4. Special fund**

(1) The manager shall establish and maintain a special fund to provide for expenditure of a kind not expected by him to be incurred annually.

(2) If there is a corporation, the corporation shall determine, by a resolution of the owners, the amount to be contributed to the special fund by the owners in any financial year, and the time when those contributions shall be payable.

(3) The manager shall maintain at a bank within the meaning of section 2 of the Banking Ordinance (Cap. 155) an interest-bearing account, the title of which shall refer to the special fund for the building, and shall use that account exclusively for the purpose referred to in subparagraph (1).

(4) The manager shall without delay pay all money received by him in respect of the special fund into the account maintained under subparagraph (3).

(5) Except in a situation considered by the manager to be an emergency, no money shall be paid out of the special fund unless it is for a purpose approved by a resolution of the owners' committee (if any).

#### **5. Contracts entered into by manager**

The manager shall not, in any financial year, enter into any contract that involves an average annual expenditure of more than 20% of the budget or revised budget, as the case may be, for that financial year or of such greater amount as the Authority may specify by notice in the Gazette unless the contract complies with such standards and guidelines as may be specified in a Code of Practice referred to in section 20A(3) and relating to procurement and tender procedures.

#### **6. Resignation of manager**

(1) No resignation of the manager shall take effect unless he has previously given not less than 3 months' notice in writing of his intention to resign —

(a) by sending such a notice to the owners' committee; or

- (b) where there is no owners' committee, by serving such a notice on each of the owners and by displaying such a notice in a prominent place in the building.
- (2) Service of a notice on an owner under this paragraph may be effected —
  - (a) personally upon the owner; or
  - (b) by post addressed to the owner at his last known address; or
  - (c) by leaving the notice at the owner's flat or depositing the notice in his letter box.

## **7. Termination of manager's appointment by owners' corporation**

(1) Subject to subparagraph (5) and (5A), at a general meeting convened for the purpose a corporation may, by a resolution of the owners of not less than 50% of the shares, terminate by notice the manager's appointment without compensation.

- (2) A resolution under subparagraph (1) shall have effect only if —
  - (a) the notice of termination of appointment is in writing;
  - (b) provision is made in the resolution for a period of not less than 3 months notice or, in lieu of notice, provision is made for an agreement to be made with the manager for the payment to him of a sum equal to the amount of remuneration which would have accrued to him during that period;
  - (c) the notice is accompanied by a copy of the resolution terminating the manager's appointment; and
  - (d) the notice and the copy of the resolution is served upon the manager not more than 14 days after the date of the meeting.

(3) Service of the notice and the copy of the resolution required to be served under subparagraph (2)(d) may be effected —

- (a) personally upon the manager; or
- (b) by post addressed to the manager at his last known address; or
- (c) by leaving the notice at the address of the registered office of the corporation.

(4) This paragraph operates without prejudice to any other power there may be to terminate the manager's appointment.

- (5) The manager's appointment may not be terminated under this paragraph —
  - (a) in the case of a corporation in respect of which a certificate of registration was issued under section 8 prior to the commencement of section 41 of the Multi-storey Buildings (Owners Incorporation) (Amendment) Ordinance 1993 (27 of 1993), by a notice that expires before the end of a period of 9 months from that commencement;
  - (b) in any other case, by a notice that expires before the end of a period of 1 year from the commencement of section 41 of the Multi-storey Buildings (Owners Incorporation) (Amendment) Ordinance 1993 (27 of 1993);
  - (c) if, within the previous 3 years, the appointment of a previous manager was terminated under this paragraph; or
  - (d) if the manager was appointed by the corporation under subparagraph (6)(b).



(5A) For the purposes of subparagraph (1) —

- (a) only the owners of shares who pay or who are liable to pay the management expenses relating to those shares shall be entitled to vote;
- (b) the reference in subparagraph (1) to “the owners of not less than 50% of the shares” shall be construed as a reference to the owners of not less than 50% of the shares who are entitled to vote.

(6) If a notice to terminate a manager’s appointment is given under this paragraph —

- (a) no appointment of a new manager shall take effect unless the appointment is approved by a resolution of the owners’ committee (if any); and
- (b) if no such appointment is approved under sub-subparagraph (a) by the time the notice expires, the corporation may appoint another manager and, if it does so, the corporation shall have exclusive power to appoint any subsequent manager.

(7) If any person has given an undertaking in writing to, or has entered into an agreement with, the Government to manage or be responsible for the management of the building, and the corporation has appointed a manager under subparagraph (6)(b), the corporation shall be deemed to have given to that person an instrument of indemnity under which the corporation shall be liable to indemnify that person in respect of any act or omission by the manager appointed under that subparagraph that may otherwise render that person liable for a breach of that undertaking or agreement.

(8) This paragraph is subject to any notice relating to the building that may be published by the Authority under section 34E(4) but does not apply to any single manager referred to in that section.

## **8. Obligations after manager’s appointment ends**

If the manager’s appointment ends for any reason, he shall within 2 months of the date his appointment ends —

- (a) prepare —
  - (i) an income and expenditure account for the period beginning with the commencement of the financial year in which his appointment ends and ending on the date his appointment ended; and
  - (ii) a balance sheet as at the date his appointment ended,and shall arrange for that account and balance sheet to be audited by an accountant or by some other independent auditor specified in a resolution of the owners’ committee (if any) or, in the absence of any such specification, by such accountant or other independent auditor as may be chosen by the manager; and
- (b) deliver to the owners’ committee (if any) or the manager appointed in his place any books or records of account, papers, documents and other records in respect of the control, management and administration of the building that are under his control or in his custody or possession.

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**HEARING AND DETERMINATION OF SPECIFIED PROCEEDINGS BY TRIBUNAL**

1. Proceedings relating to the interpretation and enforcement of the provisions of this Ordinance.
2. Proceedings relating to the interpretation and enforcement of the terms and provisions of a deed of mutual covenant, including such terms or provisions impliedly incorporated into a deed of mutual covenant under Part VIA.
3. Proceedings relating to the use, occupation, enjoyment, possession or ownership of the common parts or any other part of a building in which the owners have a common interest.
4. Proceedings relating to the calculation or apportionment of —
  - (a) any sums payable or purported to be payable under a deed of mutual covenant (if any);
  - (b) the funds and contributions referred to in sections 20 and 21;
  - (c) any management expenses or charges (howsoever named);
  - (d) any other outgoings, payments, debts or liabilities due or liable under this Ordinance or in accordance with the terms and provisions of an instrument which is registered in the Land Registry including a deed of mutual covenant (if any).
5. Proceedings relating to any question of law concerning the powers and duties of —
  - (a) a corporation;
  - (b) a management committee, and of the chairman, secretary and treasurer thereof;
  - (c) a manager within the meaning of section 34D(1);
  - (d) an owners' committee within the meaning of that section;
  - (e) the tenants' representative,including such powers and duties (if any) of a financial, pecuniary or fiduciary nature.
6. Proceedings relating to any question of law concerning ownership, occupation or possession of the whole or any part of the building, including ownership of an undivided share in a building or in land on which there is a building.
7. Without prejudice to paragraph 6 and subject to section 45(3), proceedings relating to any question of law concerning the extent and applicability or otherwise of any contractual or proprietary right enjoyed by owners and occupiers or otherwise referred to in the terms and provisions of an instrument which is registered in the Land Registry including a deed of mutual covenant (if any).

8. Proceedings relating to any question of law concerning any breach or alleged breach of any covenant, term or condition specified in an instrument which is registered in the Land Registry including a deed of mutual covenant (if any).
9. Proceedings relating to the enforcement of any contractual or proprietary right referred to in paragraph 7 or any covenant, term or condition referred to in paragraph 8, as the case may be, whether by way of specific performance, injunction, declaration, damages or otherwise.

# Appendix VII      SCHEDULE 11 TO THE BUILDING MANAGEMENT ORDINANCE

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## ENUMERATION OF OWNERS

For the purposes of section 5B —

- (a) section 40C(3) and paragraphs 1(2) and 5 of the Third Schedule and paragraph 11 of the Eighth Schedule are specified;
- (b) the enumeration of the percentage of owners mentioned in the provisions specified in paragraph (a) shall be computed as follows —

<i>Form of ownership</i>	<i>Illustration</i>	<i>To be counted as</i>
1. Multiple ownership of 1 flat	1 flat with 3 co-owners	1 owner
2. 1 owner owning more than 1 flat	1 owner owning 35 flats	1 owner
3. 1 person or more than 1 holding proxies from more than 1 owner	(a) 1 person holding proxies from 100 owners (b) 35 persons holding proxies from 100 owners in aggregate	Voting rights equal to the number of valid proxies held. In the cases as illustrated, 100 owners.

## Appendix VIII      **SAMPLE NOTICE OF MEETING**

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*Sample notice of meeting to be served on each owner of the building  
and for display in a prominent place in the building  
in accordance with sections 5(1) and 5(3)(a) of the Building Management Ordinance*

---

**(FOR REFERENCE ONLY)**

To : \_\_\_\_\_ (name of owner)

The owners of \_\_\_\_\_ (name of building)

**Notice of Owners' Meeting of \_\_\_\_\_ (name of building)**

Notice is hereby given pursuant to sections 5(1) and 5(3)(a) of the Building Management Ordinance that a meeting of owners of the abovementioned building under section \*3/3A/4/40C of the Building Management Ordinance will be held at the following :—

Date :

Time :

Place :

for the purpose of forming an owners' corporation and appointing a management committee consisting of a chairman, a <sup>†</sup> vice-chairman (if any), a secretary, a treasurer and other members in compliance with the provisions of the Building Management Ordinance, and for the discussion of matters arising therefrom and for the transaction and resolution of the matters itemized in the appended agenda.

Agenda :

- (1) to form an owners' corporation and to appoint a management committee
- (2) to pass a resolution on the number of management committee members (See (1) of Notes for the convenor(s))
- (3) to appoint the members of the management committee

- (4) to appoint a chairman of the management committee
- (5) to appoint a † vice-chairman (if any) of the management committee
- (6) to appoint a secretary of the management committee
- (7) to appoint a treasurer of the management committee
- (8) to pass a resolution on the registered address of the owners' corporation
- (9) to pass a resolution that the management committee will apply to the Land Registrar for the registration of the owners as an owners' corporation under section 7 of the Building Management Ordinance
- (10) any other business

All owners of the abovementioned building are cordially invited to attend the meeting and vote personally or to vote by proxy appointed in writing.

The proxy form is available at \_\_\_\_\_ (details of location).  
The proxy form duly signed by the owner(s) must be delivered to the \*convenor(s)/representative of the convenor(s) of the owners' meeting not less than **24** hours before the time for the holding of the owners' meeting at which the proxy proposes to vote. The name and address of the \*convenor(s)/representative of the convenor(s) is \_\_\_\_\_  
\_\_\_\_\_.

Name of Convenor(s) :

Signature of Convenor(s) :

Date :

\* Please delete as appropriate

## Notes for the convenor(s)

- (1) The owners or convenors should refer to the deed of mutual covenant and paragraph 1 of the Second Schedule to the Building Management Ordinance on the number of persons to constitute the management committee.
- (2) The convenor(s) has/have to make sure that the name and address of the building in the notice are correct. This can be done by making reference to the “Names of Buildings” published by the Rating and Valuation Department, the deed of mutual covenant of the building and the Land Registry records.
- (3) This notice shall be served upon each owner in the building and any person referred to in section 3(1)(a) or (b) of the Building Management Ordinance not less than 14 days (not counting the day of service of the notice and the day of the meeting) before the date of the meeting.
- (4) This notice shall be displayed in a prominent place in the building and shall be published in a newspaper, from amongst a list of newspapers specified by the Secretary for Home Affairs at a reasonable period of time before the date of meeting.
- (5) Service of the notice may be effected —
  - (i) personally upon the owner, and any person referred to in section 3(1)(a) or (b) of the Building Management Ordinance; or
  - (ii) by post addressed to the owner, and any person referred to in section 3(1)(a) or (b) of the Building Management Ordinance at his last known address; or
  - (iii) in the case of an owner, by leaving the notice at the owner’s flat or depositing the notice in his letter box.
- (6) If an owners’ meeting is to be convened in accordance with section 3 of the Building Management Ordinance, the convenor(s) must be —
  - (i) a person managing the building in accordance with the deed of mutual covenant (if any); or
  - (ii) any other person authorized to convene such a meeting by the deed of mutual covenant (if any);  
or
  - (iii) the owners of not less than 5% of the shares.
- (7) If an owners’ meeting is to be convened in accordance with section 3A of the Building Management Ordinance, the convenor must be the owner specified in the order granted by the Secretary for Home Affairs under section 3A(1) of the Building Management Ordinance.
- (8) If an owners’ meeting is to be convened in accordance with section 4 of the Building Management Ordinance, the convenor must be the owner specified in the order granted by the Lands Tribunal under section 4(1) of the Building Management Ordinance.



- (9) If an owners' meeting is to be convened in accordance with section 40C of the Building Management Ordinance, the convenor must be the owner specified in the order granted by the Lands Tribunal under section 40C(1) of the Building Management Ordinance.
- (10) A † vice-chairman shall be appointed if that office (howsoever named) is specified in the deed of mutual covenant of the building.
- (11) Convenor(s) of owners' meetings convened under section 3, 3A, 4 or 40C of the Building Management Ordinance should make reference to the Building Management Ordinance and the relevant provisions of the deed of mutual covenant of their own building when using this form and make any necessary adaptations.

### Disclaimer

This sample form is provided by the Home Affairs Department as a general reference only. The facts and circumstances of each building or estate and its deed of mutual covenant and/or management agreement will be different and will require specific adaptation of the sample form.

The Home Affairs Department strongly advises any owner or person to seek independent professional advice on the Building Management Ordinance (Cap. 344) and the deed of mutual covenant and/or management agreement of the relevant building or estate before using or adapting the sample form. Any owner or person should not rely, act on or refrain from acting on the basis of the sample form without seeking independent and specific professional advice on its particular case.

The Home Affairs Department does not warrant or guarantee the accuracy and suitability of the sample form for use in any particular case. The Home Affairs Department disclaims all liabilities to any person arising from or as a consequence of the use of or reliance on the sample form.

*Sample notice for publication in a newspaper from amongst  
a list of newspapers specified by the Secretary for Home Affairs  
in accordance with section 5(3)(b) of the Building Management Ordinance*

---

**(FOR REFERENCE ONLY)**

Pursuant to the Building Management Ordinance (Chapter 344)

**Notice of Owners' Meeting**

\_\_\_\_\_ **(name and address of building)**

Notice is hereby given pursuant to section 5(3)(b) of the Building Management Ordinance that a meeting of owners of the abovementioned building under section \*3/3A/4/40C of the Building Management Ordinance will be held at the following :—

Date :

Time :

Place :

for the purpose of forming an owners' corporation and appointing a management committee consisting of a chairman, a †vice-chairman (if any), a secretary, a treasurer and other members in compliance with the provisions of the Building Management Ordinance, and for the discussion of matters arising therefrom and for the transaction and resolution of the matters itemized in the appended agenda.

Agenda :

- (1) to form an owners' corporation and to appoint a management committee
- (2) to pass a resolution on the number of management committee members
- (3) to appoint the members of the management committee
- (4) to appoint a chairman of the management committee
- (5) to appoint a †vice-chairman (if any) of the management committee
- (6) to appoint a secretary of the management committee
- (7) to appoint a treasurer of the management committee

- (8) to pass a resolution on the registered address of the owners' corporation
- (9) to pass a resolution that the management committee will apply to the Land Registrar for the registration of the owners as an owners' corporation under section 7 of the Building Management Ordinance
- (10) any other business

All owners of the abovementioned building are cordially invited to attend the meeting and vote personally or to vote by proxy appointed in writing.

The proxy form is available at \_\_\_\_\_ (details of location).  
The proxy form duly signed by the owner(s) must be delivered to the \*convenor(s)/representative of the convenor(s) of the owners' meeting not less than **24** hours before the time for the holding of the owners' meeting at which the proxy proposes to vote. The name and address of the \*convenor(s)/representative of the convenor(s) is \_\_\_\_\_  
\_\_\_\_\_.

Name of Convenor(s) :

Date :

\* Please delete as appropriate

## Notes for the convenor(s)

- (1) The convenor(s) has/have to make sure that the name and address of the building in the notice are correct. This can be done by making reference to the “Names of Buildings” published by the Rating and Valuation Department, the deed of mutual covenant of the building and the Land Registry records.
- (2) This notice shall be published in a newspaper, from amongst a list of newspapers specified by the Secretary for Home Affairs at a reasonable period of time before the date of the meeting.
- (3) If an owners’ meeting is to be convened in accordance with section 3 of the Building Management Ordinance, the convenor(s) must be —
  - (i) a person managing the building in accordance with the deed of mutual covenant (if any); or
  - (ii) any other person authorized to convene such a meeting by the deed of mutual covenant (if any);  
or
  - (iii) the owners of not less than 5% of the shares.
- (4) If an owners’ meeting is to be convened in accordance with section 3A of the Building Management Ordinance, the convenor must be the owner specified in the order granted by the Secretary for Home Affairs under section 3A(1) of the Building Management Ordinance.
- (5) If an owners’ meeting is to be convened in accordance with section 4 of the Building Management Ordinance, the convenor must be the owner specified in the order granted by the Lands Tribunal under section 4(1) of the Building Management Ordinance.
- (6) If an owners’ meeting is to be convened in accordance with section 40C of the Building Management Ordinance, the convenor must be the owner specified in the order granted by the Lands Tribunal under section 40C(1) of the Building Management Ordinance.
- (7) A <sup>†</sup> vice-chairman shall be appointed if that office (howsoever named) is specified in the deed of mutual covenant of the building.
- (8) Convenor(s) of owners’ meetings convened under section 3, 3A, 4 or 40C of the Building Management Ordinance should make reference to the Building Management Ordinance and the relevant provisions of the deed of mutual covenant of their own building when using this form and make necessary adaptations.
- (9) The form of the notice to be published in the newspaper shall be identical to the form of the notice to be served on owners and to be displayed in the building.

## Disclaimer

This sample form is provided by the Home Affairs Department as a general reference only. The facts and circumstances of each building or estate and its deed of mutual covenant and/or management agreement will be different and will require specific adaptation of the sample form.

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# Appendix X

# SAMPLE PROXY FORM

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*Sample Proxy Form*  
(FOR REFERENCE ONLY)

To : The \*convenor(s)/representative of the convenor(s) of the owners' meeting of \_\_\_\_\_ (name of building)

\*I am/We are the owner(s) of Flat \_\_\_\_\_ Floor \_\_\_\_\_ Block \_\_\_\_\_ of \_\_\_\_\_ (name of building). \*I/We hereby appoint \*Mr./Ms. \_\_\_\_\_ (name of proxy) to attend as \*my/our proxy and vote for \*me/us on \*my/our behalf at the owners' meeting of \_\_\_\_\_ (name of building) to be held on \_\_\_\_\_ and at any adjournment thereof.

Name of owner(s) : \_\_\_\_\_

Contact telephone no. : \_\_\_\_\_

Name of proxy : \_\_\_\_\_

Signature of proxy : \_\_\_\_\_

For individual owner(s)

Signature of owner(s) : \_\_\_\_\_

For corporate owner(s)

SEALED with the common seal of \_\_\_\_\_ )

(Name of corporate owner) \_\_\_\_\_ )

And SIGNED by \_\_\_\_\_ )

(Name of authorized person and its post) \_\_\_\_\_ )

duly authorized by the board of directors \_\_\_\_\_ )

Date : \_\_\_\_\_

\* Please delete as appropriate

***Sample Statement of Purposes***  
***(FOR REFERENCE ONLY)***

***Purpose of Collection***

1. This form is to be used by you to appoint a proxy for the purposes of attending, forming the quorum and/or voting at an owners' meeting of The Incorporated Owners of \_\_\_\_\_ (name of the building).
2. The personal data provided in this form will be used by The Incorporated Owners of \_\_\_\_\_ (name of the building) for the purposes of verifying your identity and the validity of the appointment of your proxy with a view to complying with the requirements stipulated in the Building Management Ordinance, Cap. 344 ("BMO").

***Classes of Transferees***

3. The personal data provided in this form may be disclosed to other owners of this building, and other relevant persons and bodies (please specify) for the purposes mentioned in paragraph 2 above.

***Access to Personal Data***

4. You have the rights of access and correction to the personal data as provided for in sections 18 and 22 and principle 6 of schedule 1 of the Personal Data (Privacy) Ordinance, Cap. 486. Your right of access includes the right to obtain a copy of your personal data provided in this form.

***Consent of your Proxy***

5. You are reminded that you should obtain the consent of your proxy in using his/her personal data provided in this form, and provide your proxy with this statement of purposes informing him/her of the purpose and manner how his/her personal data will be used. Your proxy should sign on this form to signify his/her consent.

***Requirement for the appointment of a proxy***

6. Please refer to the requirements for the appointment of a proxy set out in section 5(6), and paragraph 4(2) and (3) of the Third Schedule to the BMO.



**Enquiries**

7. Enquiries regarding the personal data provided in this form, including data access requests and data correction requests should be addressed to:

The Secretary/The Chairman of the Management Committee of The Incorporated Owners of

\_\_\_\_\_ (name of the building)

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

### Notes for the convenor(s) and owners

- (1) The proxy form duly signed by the owner(s) must be delivered to the \*convenor(s)/representative of the convenor(s) of the owners' meeting not less than **24** hours before the time for the holding of the owners' meeting at which the proxy proposes to vote (the name and address of the \*convenor(s)/representative of the convenor(s) is \_\_\_\_\_ ) or within such lesser time as the person presiding at the owners' meeting shall allow.
- (2) The owner(s) must sign the proxy form personally. If the owner is a body corporate (e.g. a limited company), the company seal must be affixed to the proxy form with the signature of the authorized person of the body corporate.
- (3) If a share in the building is jointly owned by 2 or more persons, the vote of that share may be cast —
  - (i) by a proxy jointly appointed by the co-owners; or
  - (ii) by one co-owner appointed by the others; or
  - (iii) if no appointment has been made under (i) or (ii), then either personally or by proxy by one of the co-owners; and, in the case of any meeting where more than one of the co-owners seeks to cast a vote in respect of the share, only the vote that is cast, in person 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.
- (4) The sample proxy form will enable the proxy to decide at his own discretion how to vote in the owners' meeting. If the owner(s) wishes to instruct the proxy specifically on how to vote, then specific reference has to be made on which resolution is to be voted for and which resolution is to be voted against by the proxy in the proxy form.
- (5) Information contained in the proxy form can only be used for the formation of an owners' corporation and its related purposes. The proxy form should be destroyed upon successful registration of the owners as an owners' corporation under the Building Management Ordinance or when the owners have no intention to proceed further with the preparatory work for the formation of an owners' corporation.
- (6) Data user(s) of the proxy form should observe the relevant provisions of the Personal Data (Privacy) Ordinance.

## Disclaimer

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The Home Affairs Department strongly advises any owner or person to seek independent professional advice on the Building Management Ordinance (Cap. 344) and the deed of mutual covenant and/or management agreement of the relevant building or estate before using or adapting the sample form. Any owner or person should not rely, act on or refrain from acting on the basis of the sample form without seeking independent and specific professional advice on its particular case.

The Home Affairs Department does not warrant or guarantee the accuracy and suitability of the sample form for use in any particular case. The Home Affairs Department disclaims all liabilities to any person arising from or as a consequence of the use of or reliance on the sample form.

**ADDRESSES AND TELEPHONE NUMBERS  
OF THE HOME AFFAIRS DEPARTMENT  
AND DISTRICT OFFICES**

---

**Home Affairs Department**

Central Telephone Enquiry Centre

Tel : 2835 2500

21/F., Southorn Centre, 130 Hennessy Road,

Fax : 2834 3377

Wan Chai, Hong Kong

Building Management Resource Centre (Kowloon)

Tel : 2332 9113

G/F., 2 Mau Lam Street, Yau Ma Tei, Kowloon

Fax : 2332 7717

Website: <http://www.buildingmgt.gov.hk>



### **Central & Western**

G/F., Harbour Building, 38 Pier Road, Central,  
Hong Kong

Tel : 2852 3002

Fax : 2815 2155

Building Management Resource Centre (Hong Kong)  
Unit 5, G/F., The Center, 99 Queen's Road Central,  
Hong Kong

Tel : 2186 8111

Fax : 2189 2815

### **Eastern**

G/F., Eastern Law Courts Building,  
29 Tai On Street, Sai Wan Ho,  
Hong Kong

Tel : 2886 6531

Fax : 2568 7295

### **Southern**

G/F., Ocean Court, 3 Aberdeen Praya Road,  
Aberdeen, Hong Kong

Tel : 2814 5720

Fax : 2873 5261

### **Wan Chai**

G/F., 2 O'Brien Road, Wan Chai,  
Hong Kong

Tel : 2575 2477

Fax : 2572 7471

## **Kowloon City**

Rm. 1707, One Harbourfront,  
18-22 Tak Fung Street, Hung Hom, Kowloon

Tel : 2621 3401  
Fax : 2621 3199

## **Kwun Tong**

Lower G/F., Kwun Tong District Branch Offices Building,  
6 Tung Yan Street, Kwun Tong, Kowloon

Tel : 2342 3431  
Fax : 2797 8521

## **Sham Shui Po**

G/F., Cheung Sha Wan Government Offices,  
303 Cheung Sha Wan Road, Sham Shui Po, Kowloon

Tel : 2728 0781  
Fax : 2387 9805

## **Wong Tai Sin**

Unit 201, 2/F., Lung Cheung Office Block,  
138 Lung Cheung Road, Wong Tai Sin,  
Kowloon

Tel : 2322 9701  
Fax : 2352 1841

## **Yau Tsim Mong**

G/F., Mong Kok Government Offices,  
30 Luen Wan Street, Mong Kok,  
Kowloon

Tel : 2399 2111  
Fax : 2397 3425

## Public Enquiry Service Centres, New Territories District Offices



### Islands

#### **Cheung Chau Sub-office**

G/F., 22 San Hing Street, Cheung Chau

Tel : 2981 1060

Fax : 2986 9782

#### **Mui Wo Sub-office**

G/F., Mui Wo Government Offices,  
2 Ngan Kwong Wan Road, Mui Wo, Lantau Island

Tel : 2984 7231

Fax : 2984 0423

#### **Tung Chung Sub-office**

1/F., Tung Chung Post Office Building,  
6 Mei Tung Street, Tung Chung, Lantau Island

Tel : 2109 4953

Fax : 2109 1140

### Kwai Tsing

2/F., Kwai Hing Government Offices Building,  
166-174 Hing Fong Road, Kwai Chung, N.T.

Tel : 2425 4602

Fax : 2489 1083

### North

G/F., North District Government Offices,  
3 Pik Fung Road, Fanling, N.T.

Tel : 2683 2913

Fax : 2675 4414



## Sai Kung

1/F., King Lam Neighbourhood Community Centre,  
Phase 4, Area 23, King Lam Estate, Tseung Kwan O, N.T.

Tel : 2701 3218

Fax : 2704 9429

## Sha Tin

G/F., Sha Tin Government Offices,  
1 Sheung Wo Che Road, Sha Tin, N.T.

Tel : 2606 5456

Fax : 2695 4305

Building Management Resource Centre (New Territories East)  
Room 510, 5/F., Sha Tin Government Offices,  
1 Sheung Wo Che Road, Sha Tin, N.T.

Tel : 2158 5433

Fax : 3104 1220

## Tai Po

G/F., Tai Po Government Offices Building,  
1 Ting Kok Road, Tai Po, N.T.

Tel : 2654 1262

Fax : 2652 1187

## Tsuen Wan

1/F., Tsuen Wan Station Multi-storey Carpark Building,  
174-208 Castle Peak Road,  
Tsuen Wan, N.T.

Tel :2492 5096

Fax :2412 0244

Building Management Resource Centre (New Territories West)  
1/F., Tsuen Wan Station Multi-storey Carpark Building,  
174-208 Castle Peak Road,  
Tsuen Wan, N.T.

Tel :3515 5806

Fax :2612 4117

## Tuen Mun

2/F., Tuen Mun Government Offices,  
1 Tuen Hi Road, Tuen Mun, N.T.

Tel :2451 1151

Fax :2450 3014

## Yuen Long

G/F., Yuen Long District Office Building,  
269 Castle Peak Road, Yuen Long, N.T.

Tel :2474 0324

Fax :2474 7261

**The Land Registry****Customer Centre**

19/F., Queensway Government Offices,  
66 Queensway,  
Hong Kong

Tel : 2867 2871  
Fax : 2523 0907

**Reports-on-Title and Owners Incorporation Section**

28/F., Queensway Government Offices,  
66 Queensway,  
Hong Kong

Tel : 3579 8494  
Fax : 2596 0281

**New Territories Search Offices****North**

2/F., North District Government Offices,  
3 Pik Fung Road, Fanling, N.T.

Tel : 2675 1805  
Fax : 2677 6277

**Sai Kung**

4/F., Sai Kung Government Offices,  
34 Chan Man Street, Sai Kung, N.T.

Tel : 2792 4532  
Fax : 2792 7024

**Sha Tin**

Room 901, 9/F.,  
Sha Tin Government Offices,  
1 Sheung Wo Che Road, Sha Tin, N.T.

Tel : 2158 6434  
Fax : 2699 7732

**Tai Po**

4/F., Tai Po Complex,  
8 Heung Sze Wui Street, Tai Po, N.T.

Tel : 2653 5859  
Fax : 2650 8096

**Tsuen Wan**

11/F., Tsuen Wan Station Multi-storey Carpark Building,  
174-208 Castle Peak Road, Tsuen Wan, N.T.

Tel : 2416 3505  
Fax : 2415 3516

**Tuen Mun**

5/F., Tuen Mun Government Offices,  
1 Tuen Hi Road, Tuen Mun, N.T.

Tel : 2451 3162  
Fax : 2618 2013

**Yuen Long**

7/F., Yuen Long Government Offices and Tai Kiu Market,  
2 Kiu Lok Square,  
Yuen Long, N.T.

Tel : 2475 0341  
Fax : 2474 7504

Website : <http://www.landreg.gov.hk/>

