

Obligations of Property Management Company under the Building Management Ordinance

Best Practice Guide

Code No.: G19/2023

Effective Date: 3 November 2023



PROPERTY MANAGEMENT SERVICES AUTHORITY

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Preamble

For the purpose of enabling licensees¹ to comply more effectively and professionally with the guidelines set out in the Code of Conduct² entitled “Obligations of Property Management Company under the Building Management Ordinance” (Code No.: C19/2023) (“Code”) issued by the Property Management Services Authority (“PMSA”) on 3 November 2023, the PMSA provides relevant guidelines in this Best Practice Guide (“Guide”) pursuant to section 44³ of the Property Management Services Ordinance (Cap. 626) (“PMSO”). While licensees are encouraged to use their best endeavours to follow the Guide, failure to comply with the Guide will, however, not be regarded as a disciplinary offence referred to in section 4 of the PMSO.

Background

2. A licensed property management company (“PMC”), acting as the “Manager”⁴ of a property (“Manager”), may deal with various matters related to property management when providing property management services (“PMSs”) to its clients⁵. Whether acting

¹ The term “licensee” means the holder of the following licence: a PMC licence; a PMP (Tier 1) licence; a PMP (Tier 2) licence; a provisional PMP (Tier 1) licence; or a provisional PMP (Tier 2) licence.

² With regard to the Code of Conduct containing practical guidance issued by the PMSA under section 5 of the PMSO for the purpose of section 4 of the PMSO (disciplinary offences), although a licensee does not incur a legal liability only because the licensee has contravened a provision of the Code of Conduct, the Code of Conduct is admissible in evidence in disciplinary hearings, and proof that a licensee contravened or did not contravene the relevant provision of the Code of Conduct may be relied on as tending to establish or negate a matter that is in issue in the hearings.

³ Section 44 of the PMSO provides: “The Authority may do anything it considers appropriate for it to do for, or in relation to, the performance of its functions”.

⁴ According to section 34D(1) of the BMO, there are two main types of managers: (1) the person who is specified in the DMC to manage the building (i.e. DMC manager); or (2) any other person who for the time being is managing the building for the purposes of the DMC.

⁵ The term “client” has the same meaning as defined in section 16 of the PMSO, i.e. “in relation to a property for which a licensed PMC provides PMSs, means— (a) the owners’ organization of the property; and (b) the owners of the property who pay or are liable to pay the management expenses in respect of the services”. According to such a definition, a tenant is not a client.

as the deed of mutual covenant (“DMC”) manager or the person managing the property for the purposes of the DMC, a licensed PMC has to act in accordance with the relevant provisions of the Building Management Ordinance (Cap. 344) (“BMO”)⁶. The provisions in Schedule 7 to the BMO are mandatory terms to be impliedly incorporated into every DMC⁷. In the event of any inconsistency between the provisions in Schedule 7 and the terms of a DMC, the provisions in Schedule 7 shall prevail⁸.

3. A licensed PMC, in its role as a Manager, is not only obligated to act in accordance with the relevant provisions of the BMO, but is also required to assist and remind the owners / owners’ organization (including the owners’ corporation⁹ (“OC”) or the owners’ committee¹⁰ (if any)) of the property to comply with the relevant provisions of the BMO when managing the property.

Requirements for licensed PMCs under the BMO

Code: A(1) A licensed PMC, when acting as the DMC manager or the person managing the property for the purposes of the DMC, has to comply with the provisions of Schedule 7 to the BMO. Schedule 7 mainly stipulates the following matters :

- (a) Determination of management expenses
- (b) Keeping of accounts
- (c) Opening and maintaining bank account

⁶ If there are any amendments to the relevant provisions of the legislation, a licensed PMC has to act in accordance with the latest revised provisions.

⁷ According to section 34E(1) of the BMO, subject to subsection (4), the provisions in Schedule 7 shall be impliedly incorporated— (a) into every deed of mutual covenant made on or after the material date; and (b) as from the material date, into every deed of mutual covenant made before that date.

⁸ According to section 34E(2) of the BMO, the provisions incorporated into a deed of mutual covenant by virtue of this section shall— (a) bind the owners and manager of the building; and (b) prevail over any other provision in the deed that is inconsistent with them.

⁹ An OC is a body corporate set up under the BMO. It has the legal status to represent all owners in managing the common parts of the property.

¹⁰ An owners’ committee means an owners’ organization formed under and in accordance with the DMC. Its composition, operation details, duties and powers shall be such as the DMC may set out. An owners’ committee is not a body corporate. Where a management committee has been appointed and an OC formed in respect of a building, the members of the management committee shall be deemed to be the owners’ committee and shall have all the functions, powers and duties of the owners’ committee under the DMC (please refer to sections 34D and 34K of the BMO).

- (d) Special fund
- (e) Procurement arrangements
- (f) Resignation of Manager
- (g) Obligations after Manager's appointment ends
- (h) Communication among owners

Guide:

- a(1) A licensed PMC, in its capacity as the Manager, should formulate, adopt and regularly update suitable and effective measures to ensure compliance with all the provisions of Schedule 7 to the BMO.

Determination of management expenses

- Code:**
- B(1) A licensed PMC has to prepare a draft budget for each financial year setting out the proposed expenditure for the financial year. The total amount of management expenses payable by the owners in the financial year has to be the total proposed expenditure¹¹.
 - B(2) If there is no OC¹², the licensed PMC has to send a copy of the draft budget to the owners' committee¹³ or, where there is no owners' committee¹⁴, display a copy of the draft budget in a prominent place in the property, and cause it to remain so displayed for at least 7 consecutive days¹⁵.
 - B(3) The licensed PMC has to issue a notice inviting each owner to send comments on the draft budget to the licensed PMC within a period of 14 days from the date the copy of the draft budget was sent or first displayed¹⁶.

¹¹ Paragraphs 1(1) and 1(2) of Schedule 7 to the BMO

¹² See footnote 9 of this Guide

¹³ See footnote 10 of this Guide

¹⁴ See footnote 10 of this Guide

¹⁵ Paragraph 1(2)(b) of Schedule 7 to the BMO

¹⁶ Paragraph 1(2)(c) of Schedule 7 to the BMO

- B(4) Having collected comments from the owners, the licensed PMC has to prepare a budget specifying the total proposed expenditure for the financial year¹⁷.
- B(5) The licensed PMC has to send a copy of the budget to the owners' committee¹⁸ or, where there is no owners' committee¹⁹, display a copy of the budget in a prominent place in the property for at least 7 consecutive days²⁰.
- B(6) Where, in respect of a financial year, a licensed PMC has not complied with the above requirements for preparing the draft budget and the budget before the beginning of that financial year, the total amount of the management expenses for that year has to, until the licensed PMC has so complied, be deemed to be the same as the total amount of management expenses for the previous financial year²¹.
- B(7) If there is an OC²² and, within a period of 1 month from the date that the budget or revised budget (if any) is sent by the licensed PMC, the OC²³ decides, by a resolution of the owners, to reject the relevant budget, the total amount of management expenses for the financial year shall not exceed 110% of the total amount of management expenses for the previous financial year²⁴.
- B(8) If any owner requests in writing a licensed PMC to provide a copy of any draft budget, budget or revised budget, the licensed PMC has to, on payment of a reasonable copying charge, provide a copy to that owner²⁵.

¹⁷ Paragraph 1(2)(d) of Schedule 7 to the BMO

¹⁸ See footnote 10 of this Guide

¹⁹ See footnote 10 of this Guide

²⁰ Paragraph 1(2)(e) of Schedule 7 to the BMO

²¹ Paragraph 1(3) of Schedule 7 to the BMO

²² See footnote 9 of this Guide

²³ See footnote 9 of this Guide

²⁴ Paragraph 1(6) of Schedule 7 to the BMO

²⁵ Paragraph 1(7) of Schedule 7 to the BMO

Guide:

- b(1) When acting in accordance with the various provisions of Schedule 7 to the BMO regarding the determination of total amount of management expenses, a licensed PMC should carefully read all the relevant provisions and act prudently in accordance with them.
- b(2) When preparing the draft budget, as far as reasonably practicable, a licensed PMC should carefully consider various factors to properly handle the related work, such as²⁶:
 - (a) taking into account the budget of the previous year and actual incomes and expenditures;
 - (b) covering all recurring annual expenditures (including staff expenses, utility fees (e.g. water and electricity), rates and rents, service fees (including cleaning and security), repair and maintenance and minor equipment costs);
 - (c) making provisions on payment for orders received from the Government / public body in relation to the common parts of the building;
 - (d) taking into consideration any expiration of service contracts (including cost adjustments due to market cost and anticipated inflation, etc.); and
 - (e) taking into consideration the balance of building management fund for adjusting contribution²⁷.
- b(3) When preparing the draft budget, a licensed PMC should formulate and adopt appropriate consultation, approval, notice and revision procedures in order to enhance the transparency of the concerned work²⁸, state any assumptions made, and explain any significant variance for the actual income and expenditure (if any) as compared with the previous year.

²⁶ For details, please refer to section 3.2.3 “*Budgeting for the Building Management Funds*” of the *Building Financial Management Toolkit*, developed by the Independent Commission Against Corruption jointly with the Home Affairs Department, the Hong Kong Housing Society, the Hong Kong Institute of Certified Public Accountants and the Hong Kong Association of Property Management Companies :

https://bm.icac.hk/bm_wcms/UserFiles/File/en/CMS/education_publicity/bfm_kit_1901.pdf

²⁷ A licensed PMC has to set up a fund (or funds) for the management of the property. Every owner has to contribute to the fund through payment of management fees or special contributions. For details, please refer to section 3.1.1 “*Establishing Building Management Funds*” of the *Building Financial Management Toolkit* :

https://bm.icac.hk/bm_wcms/UserFiles/File/en/CMS/education_publicity/bfm_kit_1901.pdf

²⁸ For details, please refer to section 3.2.4 “*Consultation and Approval of the Budget*” of the *Building Financial Management Toolkit* :

https://bm.icac.hk/bm_wcms/UserFiles/File/en/CMS/education_publicity/bfm_kit_1901.pdf

Keeping of accounts

- Code:** C(1) (a) A licensed PMC has to keep the following accounting documents for at least 6 years²⁹:
- (i) proper books or records of account and other financial records; and
 - (ii) all bills, invoices, vouchers, receipts and other documents referred to in those books and records.
- (b) A licensed PMC has to prepare a summary of income and expenditure and a balance sheet and display a copy of the summary and the balance sheet in a prominent place in the property³⁰ in accordance with the relevant requirements, which include the following :
- (i) for each period of 3 months (or such shorter period as the licensed PMC may select), the licensed PMC has to prepare a summary of income and expenditure and a balance sheet in respect of that period, and display a copy of the summary and the balance sheet in a prominent place in the property for at least 7 consecutive days within 1 month after that period; and
 - (ii) within 2 months after the end of each financial year, the licensed PMC has to prepare an income and expenditure account and a balance sheet for that year, and display the income and expenditure account and the balance sheet in a prominent place in the property for at least 7 consecutive days.
- (c) A licensed PMC has to permit any owner to inspect the books or records of account, any income and expenditure account or balance sheet, and the accountant's / the auditor's report (if any), and supply any owner with a copy thereof in accordance with the relevant requirements³¹.

²⁹ Paragraph 2(1) of Schedule 7 to the BMO

³⁰ Paragraphs 2(2) to 2(4) and 2(7) of Schedule 7 to the BMO

³¹ Paragraphs 2(5) and 2(6) of Schedule 7 to the BMO

Guide:

- c(1) When acting in accordance with the various provisions of Schedule 7 to the BMO regarding the keeping of accounts, a licensed PMC should carefully read all the relevant provisions and act prudently in accordance with them.
- c(2) A licensed PMC should, as far as reasonably practicable, arrange for the records and documents mentioned in paragraph C(1)(a) of the Code to be kept by authorized person(s) or in a locked device, and the key or password for the device may only be kept by authorized person(s).

Opening and maintaining bank account

- Code:** D(1) (a) A licensed PMC has to open and maintain an interest-bearing bank account and has to use that account exclusively in respect of the management of the property^{32, 33}.
- (b) If there is an OC³⁴, the licensed PMC has to open and maintain one or more segregated interest-bearing accounts, each of which has to be designated as a trust account or client account, for holding money received from or on behalf of the OC³⁵ in respect of the management of the property³⁶.
- (c) A licensed PMC has to display a document showing evidence of any account opened and maintained in a prominent place in the property³⁷.
- (d) Unless otherwise specified, a licensed PMC has to without delay pay all money received in respect of the management of the property into the bank account(s) mentioned above³⁸.

³² Paragraphs 3(1), 3(1B) and 3(2)-3(5) of Schedule 7 to the BMO

³³ The PMSA has issued the “*Handling Payment for or Arranging Payment to be Made by Clients*” Code of Conduct and Best Practice Guide regarding the opening and maintaining of bank account(s) for clients by the licensed PMCs when handling payment(s) relating to PMSs. In matters related to handling bank account(s), the licensed PMCs have to comply with the Code of Conduct and refer to the relevant parts of the Best Practice Guide:

<https://www.pmsa.org.hk/en/regulatory-framework/codes-of-conduct>

³⁴ See footnote 9 of this Guide

³⁵ See footnote 9 of this Guide

³⁶ Paragraphs 3(1A) and 3(2)-3(5) of Schedule 7 to the BMO

³⁷ Paragraph 3(1B) of Schedule 7 to the BMO

³⁸ Paragraphs 3(2)-3(4) of Schedule 7 to the BMO

Guide:

- d(1) When acting in accordance with the various provisions of Schedule 7 to the BMO regarding the opening and maintaining bank account, a licensed PMC should carefully read all the relevant provisions and act prudently in accordance with them.
- d(2) With regard to the bank account(s) mentioned in paragraph D(1) of the Code, as far as reasonably practicable, a licensed PMC should³⁹:
- (a) only use the designated account(s) for the deposit or withdrawal of money relating to the management of the property concerned;
 - (b) arrange for the signing of cheque by at least two authorized persons, and, for withdrawal of different amounts of money from the designated account, arrange for the signing of the cheque by appropriate authorized persons⁴⁰. If there is a change of the authorized person(s), the licensed PMC should notify the relevant bank immediately, revoke and re-arrange the authorization; and
 - (c) change the password for operating the account regularly (e.g. every 6 months) and timely (e.g. the person who possesses or knows the password of the account resigns) in order to minimize the risk of misappropriation of money due to password leak.

Special fund

- Code:** E(1) (a) A licensed PMC has to establish and maintain a special fund to provide for expenditure not expected to be incurred annually⁴¹.
- (b) If there is an OC⁴², a licensed PMC has to remind the OC⁴³ to determine, by a resolution of the owners, the amount to be

³⁹ The PMSA has issued the “*Handling Payment for or Arranging Payment to be Made by Clients*” Code of Conduct and Best Practice Guide regarding the opening and maintaining of bank account(s) for clients by the licensed PMCs when handling payment(s) relating to PMSs. In matters related to handling bank account(s), the licensed PMCs have to comply with the Code of Conduct and refer to the relevant parts of the Best Practice Guide:

<https://www.pmsa.org.hk/en/regulatory-framework/codes-of-conduct>

⁴⁰ If transactions are carried out through online or mobile banking, a licensed PMC should use the same principle in arranging for appropriate authorized persons to manage the bank account(s).

⁴¹ Paragraphs 4(1)–4(5) of Schedule 7 to the BMO

⁴² See footnote 9 of this Guide

⁴³ See footnote 9 of this Guide

- contributed to the special fund by the owners in any financial year, and the time when those contributions have to be made⁴⁴.
- (c) A licensed PMC has to open and maintain an interest-bearing bank account, the title of which has to refer to the special fund for the property, and has to use that account exclusively for the purpose of the special fund⁴⁵.
 - (d) If there is an OC⁴⁶, a licensed PMC has to open and maintain one or more segregated interest-bearing accounts, each of which has to be designated as a trust account or client account, for holding money received in respect of the special fund⁴⁷. The licensed PMC has to display a document showing evidence of any account opened and maintained in a prominent place in the property⁴⁸.
 - (e) A licensed PMC has to without delay pay all money received in respect of the special fund into the bank account(s) mentioned above⁴⁹.
 - (f) Unless in situation considered by a licensed PMC to be an emergency or the payment is approved by a resolution of the owners' committee⁵⁰ (if any), the licensed PMC shall not pay any money out of the special fund⁵¹.

Guide:

- e(1) When acting in accordance with the various provisions of Schedule 7 to the BMO regarding the special fund, a licensed PMC should carefully read all the relevant provisions and act prudently in accordance with them.

⁴⁴ Paragraph 4(2) of Schedule 7 to the BMO

⁴⁵ Paragraph 4(3) of Schedule 7 to the BMO

⁴⁶ See footnote 9 of this Guide

⁴⁷ Paragraph 4(3A) of Schedule 7 to the BMO

⁴⁸ Paragraph 4(3B) of Schedule 7 to the BMO

⁴⁹ Paragraph 4(4) of Schedule 7 to the BMO

⁵⁰ See footnote 10 of this Guide

⁵¹ Paragraph 4(5) of Schedule 7 to the BMO

Procurement arrangements

- Code:**
- F(1) Except in situation where the tender requirement can be waived, for any goods or services the value of which exceeds or is likely to exceed the sum of \$200,000⁵², a licensed PMC has to procure such goods or services by invitation to tender⁵³.
- F(2) Except in situation where the tender requirement can be waived, for goods or services the value of which exceeds or is likely to exceed a sum which is equivalent to 20% of the annual budget⁵⁴, a licensed PMC has to procure such goods or services by invitation to tender, and by a resolution passed by a majority of votes of the owners at a general meeting of the OC⁵⁵ (or at a meeting of owners convened and conducted in accordance with the DMC (if there is no OC⁵⁶)) to decide whether to accept a tender or not⁵⁷.

Guide:

- f(1) When acting in accordance with the various provisions of Schedule 7 to the BMO regarding the procurement arrangements, a licensed PMC should carefully read all the relevant provisions and act prudently in accordance with them⁵⁸.
- f(2) A licensed PMC should, as far as reasonably practicable⁵⁹, :
- (a) establish guidelines by itself (in case there is no owners' organization) or establish guidelines after consulting the owners' organization (if any) on the procurement value, approving procedures and authority for carrying out the procurement concerned;
 - (b) timely examine the market information of the goods or services that it has

⁵² Or such other sum in substitution therefor as the Authority (i.e. Secretary for Home and Youth Affairs) may specify by notice in the Gazette (see paragraph 5(1) of Schedule 7 to the BMO)

⁵³ Paragraph 5 of Schedule 7 to the BMO

⁵⁴ Or such other percentage in substitution therefor as the Authority may specify by notice in the Gazette (see paragraph 5(2) of Schedule 7 to the BMO)

⁵⁵ See footnote 9 of this Guide

⁵⁶ See footnote 9 of this Guide

⁵⁷ Section 34D(3) of the BMO and paragraph 5 of Schedule 7 to the BMO

⁵⁸ Section 20A of the BMO and paragraph 5 of Schedule 7 to the BMO

⁵⁹ The PMSA has issued the "*Carrying out Procurement for Clients and Prevention of Bid-rigging*" Code of Conduct and Best Practice Guide regarding the procurement of supplies, goods and services for clients. The licensed PMCs have to comply with the Code of Conduct and refer to relevant parts of the Best Practice Guide:

<https://www.pmsa.org.hk/en/regulatory-framework/codes-of-conduct>

- to procure for providing PMSs, such as the prices of the relevant goods or services provided by potential suppliers in the past, and the records of previous procurement of identical or similar goods or services (if any);
- (c) declare in writing any actual or potential conflict of interest arising from the procurement work in accordance with the guidelines issued by the Independent Commission Against Corruption^{60, 61};
 - (d) arrange for employees to participate in workshops / seminars organized by the Government and/or statutory bodies (including the Competition Commission) to strengthen their knowledge in correct procurement procedures and about the Competition Ordinance (Cap. 619); and
 - (e) keep all relevant documents and records of procurement (including tender documents) in a safe place, and with the written request (if applicable) of the owners' organization (if any) or based on statutory requirements, timely provide the concerned information and records for consideration.

Resignation of Manager

Code: G(1) If a licensed PMC resigns, it has to give not less than 3 months' notice in writing by⁶²:

- (a) sending such notice to the owners' committee⁶³; or
- (b) where there is no owners' committee⁶⁴, by giving such notice to each of the owners and by displaying such notice in a prominent place in the property.

⁶⁰ For details, please refer to paragraph 2.3 of the “*Code of Practice on Procurement of Supplies, Goods and Services*” (Revised Version Effective from 1 September, 2018) (“Code of Practice on Procurement”) issued by the Secretary for Home and Youth Affairs under section 44(1)(a) of the BMO:

[https://www.buildingmgt.gov.hk/file_manager/en/documents/code_of_practice/221805064_HAD%20\(eng\)\(full\).pdf](https://www.buildingmgt.gov.hk/file_manager/en/documents/code_of_practice/221805064_HAD%20(eng)(full).pdf)

⁶¹ For details, please refer to section 4.6.4 “*Procurement by Tender*” of the *Building Management Toolkit*, developed by the Independent Commission Against Corruption jointly with the Home Affairs Department, the Hong Kong Housing Society, the Law Society of Hong Kong, the Hong Kong Institute of Surveyors, the Hong Kong Institute of Housing, the Housing Managers Registration Board, the Chartered Institute of Housing Asian Pacific Branch, and the Hong Kong Association of Property Management Companies :

https://bm.icac.hk/bm_wcms/UserFiles/File/en/CMS/education_publicity/bm_kit_1901.pdf

⁶² Paragraph 6(1) of Schedule 7 to the BMO

⁶³ See footnote 10 of this Guide

⁶⁴ See footnote 10 of this Guide

- G(2) If a contract had been entered into for appointment of a licensed PMC, the licensed PMC has to abide by the terms on resignation as contained in the appointment contract.
- G(3) The notice referred to in paragraph G(1) of the Code has to be given by a licensed PMC through one of the following ways⁶⁵:
- (a) delivering it personally to the owner;
 - (b) sending it by post to the owner at the last known address; or
 - (c) leaving it at the owner's flat or depositing it in the letter box for that flat.

Guide:

- g(1) A licensed PMC should adopt appropriate and proper procedures to discharge its handover obligations when its appointment for providing PMSs at a property ends.

Obligations after Manager's appointment ends

- Code:** H(1) If a licensed PMC's appointment ends for any reason, it has to meet the following obligations^{66, 67}:
- (a) as soon as practicable after its appointment ends, and in any event within 14 days of the date its appointment ends, deliver to the owners' committee⁶⁸ (if any) or the licensed PMC appointed to take up its place any movable property in respect of the management of the property that is in its possession, and that belongs to the OC⁶⁹ (if any) or the owners⁷⁰.
 - (b) within 2 months of the date its appointment ends, prepare an income and expenditure account and a balance sheet, and

⁶⁵ Paragraph 6(2) of Schedule 7 to the BMO

⁶⁶ Paragraph 8 of Schedule 7 to the BMO

⁶⁷ The PMSA has issued the "*Obligations of Property Management Companies regarding the Ending of their Appointment*" Code of Conduct and Best Practice Guide regarding the obligations of the licensed PMCs after their appointment ends. The licensed PMCs have to comply with the Code of Conduct and refer to relevant parts of the Best Practice Guide:

<https://www.pmsa.org.hk/en/regulatory-framework/codes-of-conduct>

⁶⁸ See footnote 10 of this Guide

⁶⁹ See footnote 9 of this Guide

⁷⁰ Paragraph 8(1) of Schedule 7 to the BMO

arrange for that account and balance sheet to be audited by the accountant or auditor specified by the owners' organization (if any)⁷¹.

- (c) deliver to the owners' organization (if any) or the licensed PMC appointed to take up its place any books or records of accounts, papers, documents and other records required for the purposes of preparing an income and expenditure account and a balance sheet^{72, 73}.

Guide:

- h(1) When acting in accordance with the various provisions of Schedule 7 to the BMO regarding the obligations after its appointment ends, a licensed PMC should carefully read all the relevant provisions and act prudently in accordance with them.
- h(2) In order to meet its obligations at the end of the appointment, a licensed PMC should, as far as reasonably practicable⁷⁴:
 - (a) make appropriate and proper arrangements for the handover of the management work and the relevant documents / information (including the progress of ongoing legal proceedings (if any)) in order to minimize the impact of the handover on the provision of PMSs;
 - (b) if the licensed PMC has lost a movable property, it should inform the owners' organization (if any) and discuss the appropriate remedial action to be taken; and
 - (c) in compliance with the requirements referred to in paragraph H(1)(b) of the Code, if the relevant accountant or auditor makes relevant enquiries, the licensed PMC should as much as possible provide the relevant

⁷¹ Paragraph 8(2)(a) of Schedule 7 to the BMO

⁷² The PMSA has issued the "*Obligations of Property Management Companies regarding the Ending of their Appointment*" Code of Conduct and Best Practice Guide regarding the obligations of the licensed PMCs after their appointment ends. The licensed PMCs have to comply with paragraph C(2) of the Code of Conduct and refer to relevant parts of the Best Practice Guide:

<https://www.pmsa.org.hk/en/regulatory-framework/codes-of-conduct>

⁷³ Paragraph 8(2)(b) of Schedule 7 to the BMO

⁷⁴ The PMSA has issued the "*Obligations of Property Management Companies regarding the Ending of their Appointment*" Code of Conduct and Best Practice Guide regarding the obligations of the licensed PMCs after their appointment ends. The licensed PMCs have to comply with the Code of Conduct and refer to relevant parts of the Best Practice Guide:

<https://www.pmsa.org.hk/en/regulatory-framework/codes-of-conduct>

information and documents in order to assist in the completion of the relevant audit.

Communication among owners

Code: I(1) A licensed PMC has to consult (either generally or in any particular case) the OC⁷⁵ (if any) at a general meeting of the OC⁷⁶ and follow the approach adopted by the OC⁷⁷ in respect of the channels of communication among owners on any business relating to the management of the property⁷⁸.

Guide:

i(1) A licensed PMC should adopt appropriate and proper measures in order to effectively implement the approach decided and adopted by the OC⁷⁹ (if any) on the channels of communication among owners.

Requirements under the BMO which a licensed PMC has to remind an OC to comply with

Code: J(1) For a property that has an OC⁸⁰, a licensed PMC, as far as reasonably practicable, has to assist and remind the OC⁸¹ to comply with the relevant requirements under the BMO that apply to the OC⁸², and remind the OC⁸³ to act in accordance with the BMO. The requirements under the BMO relating to property management mainly cover the following matters :

⁷⁵ See footnote 9 of this Guide

⁷⁶ See footnote 9 of this Guide

⁷⁷ See footnote 9 of this Guide

⁷⁸ Paragraph 9 of Schedule 7 to the BMO

⁷⁹ See footnote 9 of this Guide

⁸⁰ See footnote 9 of this Guide

⁸¹ See footnote 9 of this Guide

⁸² See footnote 9 of this Guide

⁸³ See footnote 9 of this Guide

- (a) General meeting and management committee (“MC”⁸⁴) meeting;
- (b) Financial matters;
- (c) Procurement and tender procedures;
- (d) Building insurance; and
- (e) Facility management and safety of the property (including environmental hygiene, security, slope safety, lift installation safety, etc.).

J(2) If the scope of work agreed between a licensed PMC and an OC⁸⁵ (if any) includes the property management matters referred to in paragraphs J(1)(a) to (e) of this Code, then the licensed PMC has to act in accordance with the requirements related thereto under the BMO.

Guide:

- j(1) A licensed PMC should remind the OC⁸⁶ (if any) to carefully read all the relevant provisions of the BMO and act prudently in accordance with them.
- j(2) In respect of general meeting and MC meeting, a licensed PMC should remind the OC⁸⁷ about matters that include :
 - (a) the MC shall convene annual general meeting of the OC⁸⁸ regularly, and at the request of not less than 5% of the owners, convene and hold a general meeting of the OC⁸⁹ in accordance with the requirements under the BMO⁹⁰.
 - (b) the MC shall meet at least once in every period of 3 months⁹¹.
 - (c) the MC shall convene and hold general meeting of the OC⁹² and MC meeting in accordance with the requirements in Schedule 2 and Schedule

⁸⁴ Part II of the BMO

⁸⁵ See footnote 9 of this Guide

⁸⁶ See footnote 9 of this Guide

⁸⁷ See footnote 9 of this Guide

⁸⁸ See footnote 9 of this Guide

⁸⁹ See footnote 9 of this Guide

⁹⁰ Paragraph 1 of Schedule 3 to the BMO

⁹¹ Paragraph 7 of Schedule 2 to the BMO

⁹² See footnote 9 of this Guide

3 to the BMO, which include giving notice of meeting, collecting and handling instrument appointing proxy, preparing minutes of meeting and keeping record, etc.⁹³.

j(3) In respect of financial matters, a licensed PMC should remind the OC⁹⁴ about matters that include :

- (a) the MC shall prepare the annual budget of the OC⁹⁵, setting out the sums of various expenses⁹⁶ and determine the amount to be contributed by the owners^{97, 98}.
- (b) regarding the books of the OC⁹⁹, the MC shall :
 - (i) prepare, within 15 months after the date of the registration of the OC¹⁰⁰ and thereafter every 12 months, financial statements which shall be laid at the annual general meeting of the OC¹⁰¹.
 - (ii) (unless exempted under the BMO) lay at the annual general meeting of the OC the financial statements audited by an accountant retained by way of resolution passed at a general meeting¹⁰².
 - (iii) maintain proper books or records of account and other financial records, and permit those persons allowed under the BMO to inspect them¹⁰³.
- (c) All bills, invoices, vouchers, receipts and other documents referred to in the books or records of account and other records shall be kept for no less than 6 years¹⁰⁴.

⁹³ Schedule 2 and Schedule 3 to the BMO

⁹⁴ See footnote 9 of this Guide

⁹⁵ See footnote 9 of this Guide

⁹⁶ Schedule 5 to the BMO

⁹⁷ Section 21 of the BMO and paragraph 1 of Schedule 5 to the BMO

⁹⁸ Section 22 of the BMO

⁹⁹ See footnote 9 of this Guide

¹⁰⁰ See footnote 9 of this Guide

¹⁰¹ Section 27(1) of the BMO

¹⁰² Section 27(1) and (1A) of the BMO

¹⁰³ Section 27(1) and (2) of the BMO

¹⁰⁴ Paragraph 1 of Schedule 6 to the BMO

- j(4) In respect of procurement and tender procedures, a licensed PMC should remind the OC¹⁰⁵ about matters that include :
- (a) if the value of any goods or services exceeds or is likely to exceed the sum of \$200,000¹⁰⁶, the OC¹⁰⁷ shall procure such goods or services by invitation to tender¹⁰⁸.
 - (b) if the value of any goods or services exceeds or is likely to exceed 20% of the annual budget of the OC¹⁰⁹,¹¹⁰, the OC¹¹¹ shall procure such goods or services by invitation to tender, and decide whether to accept a tender by way of a resolution passed by a majority of votes at a general meeting of the OC¹¹²,¹¹³.
- j(5) In respect of building insurance, a licensed PMC should remind the OC¹¹⁴ about matters that include procuring and keeping in force such insurance in relation to the common parts of the building and the property of the OC¹¹⁵ covering third party risks in compliance with relevant requirements (including minimum insured amount (if applicable))¹¹⁶.
- j(6) In respect of facility management and safety of the property, a licensed PMC should remind the OC¹¹⁷ to comply with the standards and guidelines specified in the “Code of Practice on Building Management and Safety” issued by the

¹⁰⁵ See footnote 9 of this Guide

¹⁰⁶ Or such other sum in substitution therefor as the Authority may specify by notice in the Gazette (see section 20A(2) of the BMO)

¹⁰⁷ See footnote 9 of this Guide

¹⁰⁸ Section 20A(2)(a) of the BMO and the Code of Practice on Procurement. For details, please refer to :

[https://www.buildingmgt.gov.hk/file_manager/en/documents/code_of_practice/221805064_HAD%20\(eng\)\(full\).pdf](https://www.buildingmgt.gov.hk/file_manager/en/documents/code_of_practice/221805064_HAD%20(eng)(full).pdf)

¹⁰⁹ See footnote 9 of this Guide

¹¹⁰ Or such other percentage in substitution therefor as the Authority may specify by notice in the Gazette (see section 20A(2) of the BMO)

¹¹¹ See footnote 9 of this Guide

¹¹² See footnote 9 of this Guide

¹¹³ Section 20A(2)(b) and 20A(2B) of the BMO and the Code of Practice on Procurement. For details, please refer to :

[https://www.buildingmgt.gov.hk/file_manager/en/documents/code_of_practice/221805064_HAD%20\(eng\)\(full\).pdf](https://www.buildingmgt.gov.hk/file_manager/en/documents/code_of_practice/221805064_HAD%20(eng)(full).pdf)

¹¹⁴ See footnote 9 of this Guide

¹¹⁵ See footnote 9 of this Guide

¹¹⁶ Section 28 of the BMO

¹¹⁷ See footnote 9 of this Guide

Secretary for Home and Youth Affairs under section 44(1)(b) of the BMO regarding management and maintenance of common parts, environmental hygiene, security, water utilities and supply, fire safety, building safety, slope safety, tree safety, electrical, gas, lift and escalator installations of the property¹¹⁸.

Requirements under the BMO which a licensed PMC has to remind an owners' committee to comply with

Code: K(1) For a property that has an owners' committee¹¹⁹, a licensed PMC, as far as reasonably practicable, has to assist and remind the owners' committee¹²⁰ to comply with the requirements in Schedule 8¹²¹ to the BMO that apply to the owners' committees¹²², and remind the owners' committee¹²³ to act in accordance with such requirements. Schedule 8 mainly sets out the requirements for the meetings of owners' committee¹²⁴ and the meetings of owners.

Guide:

- k(1) A licensed PMC should remind the owners committee¹²⁵ (if any) to carefully read all the relevant provisions of Schedule 8 to the BMO and act prudently in accordance with them.
- k(2) In respect of the meetings of owners' committee¹²⁶, a licensed PMC should remind the owners' committee¹²⁷ about matters that include :

¹¹⁸ For details, please refer to the “*Code of Practice on Building Management and Safety*” (Revised Version Effective from 1 September, 2018) issued by the Secretary for Home and Youth Affairs under section 44(1)(b) of the BMO:

[https://www.buildingmgt.gov.hk/file_manager/en/documents/code_of_practice/221805064_HAD%20\(eng\)\(full\).pdf](https://www.buildingmgt.gov.hk/file_manager/en/documents/code_of_practice/221805064_HAD%20(eng)(full).pdf)

¹¹⁹ See footnote 10 of this Guide

¹²⁰ See footnote 10 of this Guide

¹²¹ According to section 34F of the BMO, the provisions in Schedule 8 shall, to the extent that they are consistent with the DMC, be impliedly incorporated into every DMC. Any provision in Schedule 8 that is so incorporated may, by a resolution of the owners, be amended, deleted, or re-incorporated into the DMC.

¹²² See footnote 10 of this Guide

¹²³ See footnote 10 of this Guide

¹²⁴ See footnote 10 of this Guide

¹²⁵ See footnote 10 of this Guide

¹²⁶ See footnote 10 of this Guide

¹²⁷ See footnote 10 of this Guide

- (a) a meeting of the owners' committee¹²⁸ may be convened at any time by the chairman or any 2 members of the owners' committee^{129, 130};
- (b) the person or persons convening the meeting of the owners' committee¹³¹ shall, at least 7 days before the date of the meeting, give notice of the meeting to each member of the owners' committee^{132, 133};
- (c) the quorum at a meeting of the owners' committee¹³⁴ shall be 50% of the members of the owners' committee¹³⁵ (rounded up to the nearest whole number) or 3 such members, whichever is the greater¹³⁶; and
- (d) the procedure at meetings of the owners' committee¹³⁷ shall be as is determined by the owners' committee^{138, 139}.

k(3) In respect of the meetings of owners, a licensed PMC should remind the owners' committee¹⁴⁰ about matters that include :

- (a) a meeting of owners may be convened by¹⁴¹:
 - (i) the owners' committee¹⁴²;
 - (ii) the Manager; or
 - (iii) an owner appointed to convene such a meeting by the owners of not less than 5% of the shares in aggregate.
- (b) the person convening the meeting of owners shall, at least 14 days before the date of the meeting, give notice of the meeting to each owner¹⁴³. The

¹²⁸ See footnote 10 of this Guide

¹²⁹ See footnote 10 of this Guide

¹³⁰ Paragraph 1 of Schedule 8 to the BMO

¹³¹ See footnote 10 of this Guide

¹³² See footnote 10 of this Guide

¹³³ Paragraph 2 of Schedule 8 to the BMO

¹³⁴ See footnote 10 of this Guide

¹³⁵ See footnote 10 of this Guide

¹³⁶ Paragraph 4 of Schedule 8 to the BMO

¹³⁷ See footnote 10 of this Guide

¹³⁸ See footnote 10 of this Guide

¹³⁹ Paragraph 7 of Schedule 8 to the BMO

¹⁴⁰ See footnote 10 of this Guide

¹⁴¹ Paragraph 8 of Schedule 8 to the BMO

¹⁴² See footnote 10 of this Guide

¹⁴³ Paragraph 9 of Schedule 8 to the BMO

notice of meeting shall specify the date, time and place of the meeting, and the resolutions (if any) that are to be proposed at the meeting¹⁴⁴.

- (c) the quorum at a meeting of owners shall be 10% of the owners¹⁴⁵.
- (d) the procedure at a meeting of owners shall be as is determined by the owners¹⁴⁶.

— END —

If there is any inconsistency between the Chinese version and the English version of this Guide, the Chinese version shall prevail.

If there are any amendments to any laws or regulations mentioned in this Guide, licensees have to act in accordance with the revised provisions.

¹⁴⁴ Paragraph 9A of Schedule 8 to the BMO

¹⁴⁵ Paragraph 11 of Schedule 8 to the BMO

¹⁴⁶ Paragraph 15 of Schedule 8 to the BMO



Related Code of Conduct

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