

Obligations of Property Management Company under the Building Management Ordinance

Best Practice Guide (Revised Edition)

Code No.: G19/2023

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PROPERTY MANAGEMENT SERVICES AUTHORITY

Best Practice Guide on Obligations of Property Management Company under the Building Management Ordinance

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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 and revised on 24 January 2025, 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

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”.

“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 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. The “Building Management (Amendment) Bill 2023” was passed by the Legislative Council on 4 July 2024 and was gazetted as the “Building Management (Amendment) Ordinance 2024” (“Amendment Ordinance”) on 12 July 2024. The Amendment Ordinance covers various aspects including procurement, financial statements, keeping of documents, criminal sanctions and other miscellaneous amendments, etc. The Amendment Ordinance incorporates amendments in respect of large-scale maintenance procurement, other high-value supplies, goods or services procurement, and financial statements for buildings into Schedule 7 as mandatory terms in the DMC.

3.1 With regard to large-scale maintenance procurement and other high-value supplies, goods or services procurement for buildings, the Amendment Ordinance provides for the following three procurement categories:

(a) Type 1 High-value Procurement⁹ – the value of procurement of the supplies,

⁴ According to section 2(1) of the BMO, “*manager*, in relation to a building, means – (a) the DMC manager; or (b) any other person who for the time being is, for the purposes of the deed of mutual covenant, managing the building”; and “*DMC manager*, in relation to a building, means the person who is specified in the deed of mutual covenant to manage the building”.

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.

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 Sections 2D(1)(a) and 2D(2)-2D(6) of the BMO

goods or services exceeds, or is likely to exceed, \$200,000, and is not Type 2 High-value Procurement¹⁰ nor Large-scale Maintenance Procurement¹¹;

(b) Type 2 High-value Procurement¹² – the value of procurement of the supplies, goods or services exceeds, or is likely to exceed, 20% of the average annual expenditure for the last 3 financial years of the property (reference amount¹³), and is not Large-scale Maintenance Procurement¹⁴; and

(c) Large-scale Maintenance Procurement¹⁵ – the procurement of the supplies, goods or services is mainly for repairing, replacing, maintaining or improving any of the common parts of the property, the average procurement value per flat in the works project exceeds, or is likely to exceed, \$30,000; and the procurement is not the procurement of any cleaning or security services for the property, or any PMSs provided by the Manager of the property.

3.2 The financial statements of the property with total annual income or expenditure (or both) exceeding \$500,000 has to be audited regardless of the number of flats¹⁶. Once the financial statements are available, the licensed PMC has to display a copy of such financial statements and a copy of the accountant's report (if applicable) in a prominent place in the property for at least 7 consecutive days¹⁷.

4. 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' corporation¹⁸ ("OC") or the owners' committee¹⁹ (if any)) of the property to comply with the relevant provisions of the BMO when managing the property. A licensed PMC should cooperate

¹⁰ Sections 2D(1)(b) and 2D(2)-2D(6) of the BMO

¹¹ Section 2E of the BMO

¹² Sections 2D(1)(b) and 2D(2)-2D(6) of the BMO

¹³ Sections 2D(3)-2D(6) of the BMO

¹⁴ Section 2E of the BMO

¹⁵ Section 2E of the BMO

¹⁶ Section 27(2)(c) and paragraphs 2(6) and (6A) of Schedule 7 to the BMO

¹⁷ Paragraph 2(6B) of Schedule 7 to the BMO

¹⁸ 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.

¹⁹ 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).

with relevant Government department in respect of the work under the BMO.

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 and other requirements in relation to Manager in the BMO. These mainly include the following requirement:

General provisions relating to Manager –

- (a) General duties of Manager
 - (i) Determination of management expenses
 - (ii) Keeping of accounts
 - (iii) Opening and maintaining bank account
 - (iv) Special fund
 - (v) Communication among owners
- (b) Termination of Manager's appointment
 - (i) Resignation of Manager
 - (ii) Obligations after Manager's appointment ends

Procurement of supplies, goods or services –

- (a) Tendering requirement
- (b) Declaration requirement
- (c) Additional declaration requirement
- (d) Specific procedures at meeting
- (e) Keeping and permitting inspection of procurement documents

Procedure at meeting of owners –

- (a) General procedure

Control, management and administration of a property –

- (a) Cooperating with relevant Government departments in respect of the control, management or administration of a property

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 and other requirement in relation to Manager in the BMO.

General provisions Relating to Manager

General duties of Manager – 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 expenditure²⁰.
- B(2) If there is no OC²¹, the licensed PMC has to send a copy of the draft budget to the owners' committee²² or, where there is no owners' committee²³, 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 days²⁴.
- 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 displayed²⁵.
- B(4) Having collected comments from the owners, the licensed PMC has to prepare a budget specifying the total proposed expenditure for the financial year²⁶.

²⁰ Paragraphs 1(1) and 1(2) of Schedule 7 to the BMO

²¹ See footnote 18 of this Guide

²² See footnote 19 of this Guide

²³ See footnote 19 of this Guide

²⁴ Paragraph 1(2)(b) of Schedule 7 to the BMO

²⁵ Paragraph 1(2)(c) of Schedule 7 to the BMO

²⁶ Paragraph 1(2)(d) of Schedule 7 to the BMO

- B(5) The licensed PMC has to send a copy of the budget to the owners' committee²⁷ or, where there is no owners' committee²⁸, display a copy of the budget in a prominent place in the property for at least 7 consecutive days²⁹.
- 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 year³⁰.
- B(7) If there is an OC³¹ 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 OC³² decides, by a resolution of the OC, 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 year³³.
- 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, upon receipt of a reasonable copying charge, supply the owner with the copy in hard copy form or, without imposing any charge, the copy in electronic form, within 28 days after the date on which the request is made³⁴.

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.

²⁷ See footnote 19 of this Guide

²⁸ See footnote 19 of this Guide

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

³⁰ Paragraph 1(3) of Schedule 7 to the BMO

³¹ See footnote 18 of this Guide

³² See footnote 18 of this Guide

³³ Paragraph 1(6) of Schedule 7 to the BMO

³⁴ Paragraphs 1(7), (7A) and (7B) of Schedule 7 to the BMO

- 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 as³⁵:
- (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 contribution³⁶.
- 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 work³⁷, state any assumptions made, and explain any significant variance for the actual income and expenditure (if any) as compared with the previous year.

³⁵ 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/Building_Maintenance_Toolkit.html?lang=en

³⁶ 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/Building_Maintenance_Toolkit.html?lang=en

³⁷ 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/Building_Maintenance_Toolkit.html?lang=en

General duties of Manager – Keeping of accounts

- Code:** C(1) (a) A licensed PMC has to keep the following accounting documents for at least 6 years³⁸:
- (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 and sign the following financial documents³⁹ in accordance with the relevant requirement, 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 period⁴⁰; and
 - (ii) for each financial year, the licensed PMC has to prepare an income and expenditure account and balance sheet (“Financial Statements”)⁴¹. The Financial Statements of the property with total annual income or expenditure (or both) exceeding \$500,000 has to be properly audited according to the relevant requirement regardless of the number of flats⁴², and as soon as reasonably practicable, a copy of the Financial Statements and a copy of the accountant’s report (if any) have to be displayed in a prominent place in the property for at least 7 consecutive days⁴³.

³⁸ Paragraph 2(1) of Schedule 7 to the BMO

³⁹ Paragraph 2(4A) of Schedule 7 to the BMO

⁴⁰ Paragraph 2(2) of Schedule 7 to the BMO

⁴¹ Paragraph 2(3) of Schedule 7 to the BMO

⁴² Paragraphs 2(6) and (6A) of Schedule 7 to the BMO

⁴³ Paragraph 2(6B) of Schedule 7 to the BMO

- (c) A licensed PMC has to permit specified persons⁴⁴ to inspect any accounting document⁴⁵ at any reasonable time, and supply any specified person (i.e. an owner, a registered mortgagee, etc.) with a copy thereof in accordance with the relevant requirement⁴⁶.

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).

General duties of Manager – 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^{47, 48}.
- (b) If there is an OC⁴⁹, 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 the OC⁵⁰ or on behalf of the OC⁵¹

⁴⁴ Paragraph 2(8) of Schedule 7 to the BMO. *Specified person* means – (a) an owner; (b) a registered mortgagee; or (c) any person duly authorized in writing by an owner or registered mortgagee to conduct an inspection mentioned in paragraph 2(6C).

⁴⁵ Paragraph 2(8) of Schedule 7 to the BMO. *Accounting document* means – (a) any book or record maintained, or document kept, under paragraph 2(1); (b) any summary of income and expenditure, or balance sheet, prepared under paragraph 2(2); (c) any financial statements prepared under paragraph 2(3); or (d) any accountant’s report in respect of an audit under paragraph 2(6A)(a).

⁴⁶ Paragraphs 2(6C), (6D)-(6F) and (8) of Schedule 7 to the BMO

⁴⁷ Paragraphs 3(1), 3(1B) and 3(2)-3(5) of Schedule 7 to the BMO

⁴⁸ 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>

⁴⁹ See footnote 18 of this Guide

⁵⁰ See footnote 18 of this Guide

⁵¹ See footnote 18 of this Guide

in respect of the management of the property⁵².

(c) A licensed PMC has to display a document showing evidence of any account opened and maintained in a prominent place in the property⁵³.

(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 above⁵⁴.

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 should⁵⁵:
 - (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 persons⁵⁶. 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.

⁵² Paragraphs 3(1A) and 3(2)-3(5) of Schedule 7 to the BMO

⁵³ Paragraph 3(1B) of Schedule 7 to the BMO

⁵⁴ Paragraphs 3(2)-3(4) of Schedule 7 to the BMO

⁵⁵ 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>

⁵⁶ 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).

General duties of Manager – 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 annually⁵⁷.
 - (b) If there is an OC⁵⁸, a licensed PMC has to remind the OC⁵⁹ to determine, by a resolution of the OC, the amount to be contributed to the special fund by the owners in any financial year, and the time when those contributions have to be made⁶⁰.
 - (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 fund⁶¹.
 - (d) If there is an OC⁶², 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 fund⁶³. The licensed PMC has to display a document showing evidence of any account opened and maintained in a prominent place in the property⁶⁴.
 - (e) A licensed PMC has to without delay pay all money received in respect of the special fund into the bank account(s) mentioned above⁶⁵.
 - (f) Unless in situation considered by a licensed PMC to be an emergency or the payment is approved by a resolution of the owners' committee⁶⁶ (if any), the licensed PMC shall not pay any money out of the special fund⁶⁷.

Guide:

⁵⁷ Paragraphs 4(1)-4(5) of Schedule 7 to the BMO

⁵⁸ See footnote 18 of this Guide

⁵⁹ See footnote 18 of this Guide

⁶⁰ Paragraph 4(2) of Schedule 7 to the BMO

⁶¹ Paragraph 4(3) of Schedule 7 to the BMO

⁶² See footnote 18 of this Guide

⁶³ Paragraph 4(3A) of Schedule 7 to the BMO

⁶⁴ Paragraph 4(3B) of Schedule 7 to the BMO

⁶⁵ Paragraph 4(4) of Schedule 7 to the BMO

⁶⁶ See footnote 19 of this Guide

⁶⁷ Paragraph 4(5) of Schedule 7 to the BMO

- 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.

General duties of Manager – Communication among owners

Code: F(1) A licensed PMC has to, on the channel of communication among owners on any business relating to the management of the property⁶⁸, follow the relevant requirement:

- (a) If there is OC⁶⁹ – consult (either generally or in any particular case) the OC at a general meeting of the OC convened under Schedule 3 to the BMO and adopt the approach decided by the OC; or
- (b) If there is no OC⁷⁰ – consult (either generally or in any particular case) the owners’ committee at a meeting of the owners convened under the DMC and adopt the approach decided by the owners’ committee.

Guide:

- f(1) A licensed PMC should adopt appropriate and proper measures in order to effectively implement the approach decided by the owners on the channel of communication among owners.

Termination of Manager’s appointment – Resignation of Manager

Code: G(1) If a licensed PMC resigns, it has to give not less than 3 months’ notice in writing by⁷¹:

- (a) sending such notice to the owners’ committee⁷²; or

⁶⁸ Paragraph 4A of Schedule 7 to the BMO

⁶⁹ See footnote 18 of this Guide

⁷⁰ See footnote 18 of this Guide

⁷¹ Paragraph 6(1) of Schedule 7 to the BMO

⁷² See footnote 19 of this Guide

- (b) where there is no owners' committee⁷³, by giving such notice to each of the owners and by displaying such notice in a prominent place in the property.
- 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 ways⁷⁴:
 - (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.

Termination of Manager's appointment– Obligations after Manager's appointment ends

- Code:** H(1) If a licensed PMC's appointment ends for any reason, its obligations include the following requirement^{75, 76}:
- (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' committee⁷⁷ (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

⁷³ See footnote 19 of this Guide

⁷⁴ Paragraph 6(2) of Schedule 7 to the BMO

⁷⁵ Paragraph 8 of Schedule 7 to the BMO

⁷⁶ 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>

⁷⁷ See footnote 19 of this Guide

- belongs to the OC⁷⁸ (if any) or the owners⁷⁹.
- (b) within 2 months of the date its appointment ends, prepare an income and expenditure account and a balance sheet, and arrange for that account and balance sheet to be audited by the accountant or auditor specified by the owners' organization (if any)⁸⁰.
- (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^{81, 82}.

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 practicable⁸³:
- (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

⁷⁸ See footnote 18 of this Guide

⁷⁹ Paragraph 8(1) of Schedule 7 to the BMO

⁸⁰ Paragraph 8(2)(a) of Schedule 7 to the BMO

⁸¹ 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>

⁸² Paragraph 8(2)(b) of Schedule 7 to the BMO

⁸³ 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:

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

Procurement of supplies, goods or services⁸⁴

Code:	I(1)	Tendering requirement – A licensed PMC has to comply with the requirement below when carrying out Type 1 High-value Procurement⁸⁵, Type 2 High-value Procurement⁸⁶ and Large-scale Maintenance Procurement⁸⁷: (a) Unless under the circumstance in which tendering can be exempt⁸⁸, the procurement has to be conducted by an invitation to tender⁸⁹; (b) An invitation to tender issued for the procurement has to set out clearly the nature of the supplies, goods or services to which the procurement relates, and specify a deadline for tender submission⁹⁰; (c) A copy of the invitation to tender has to be displayed in a prominent place in the property until the deadline⁹¹; (d) Tenders submitted after the deadline must not be accepted⁹²; (e) Unless under the circumstance in which the minimum number of tenders to be invited can be exempt⁹³, the minimum number of tenders to be invited is:
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⁸⁴ For transitional arrangements on procurement requirement under the Amendment Ordinance, refer to section 44B of the BMO.

⁸⁵ Sections 2D(1)(a) and 2D(2)-2D(6) of the BMO

⁸⁶ Sections 2D(1)(b) and 2D(2)-2D(6) of the BMO

⁸⁷ Section 2E of the BMO

⁸⁸ Paragraphs 12(3) and 13(3) of Schedule 7 to the BMO

⁸⁹ Paragraphs 12-14 of Schedule 7 to the BMO

⁹⁰ Paragraphs 16 and 17 of Schedule 7 to the BMO

⁹¹ Paragraph 18 of Schedule 7 to the BMO

⁹² Paragraph 19 of Schedule 7 to the BMO

⁹³ Paragraph 20(4) of Schedule 7 to the BMO. The requirement on the minimum number of tenders to be invited can be waived if it is so decided by an owners resolution.

- (i) for procurement the value of which exceeds, or is likely to exceed \$200,000, an invitation to tender has to be issued to at least 5 potential suppliers⁹⁴.
- (ii) for procurement the value of which exceeds, or is likely to exceed \$10,000, but does not exceed, or is unlikely to exceed \$200,000, an invitation to tender has to be issued to at least 3 potential suppliers⁹⁵.

I(2) Declaration requirement –

A licensed PMC has to make declaration regarding the three procurement categories (i.e. Type 1 High-value Procurement⁹⁶, Type 2 High-value Procurement⁹⁷ and Large-scale Maintenance Procurement⁹⁸) according to the requirement, which include the following:

- (a) Where a responsible person⁹⁹ for the procurement (i.e. the licensed PMC as Manager or a person who is accustomed or obliged to act in accordance with the directions or instructions of the licensed PMC in connection with the procurement) has any pecuniary/other personal dealing or connection with a member of a management committee¹⁰⁰ (“MC”) (if there is OC)/owners’ committee (if there is no OC), he has to make a declaration¹⁰¹ in the specified form¹⁰² to a specified person¹⁰³.
- (b) Where a responsible person¹⁰⁴ for the procurement has any

⁹⁴ Paragraph 20(1)(a) of Schedule 7 to the BMO

⁹⁵ Paragraph 20(1)(b) of Schedule 7 to the BMO

⁹⁶ Sections 2D(1)(a) and 2D(2)-2D(6) of the BMO

⁹⁷ Sections 2D(1)(b) and 2D(2)-2D(6) of the BMO

⁹⁸ Section 2E of the BMO

⁹⁹ Section 2(1) of the BMO. **Responsible person**, in relation to the procurement of any supplies, goods or services for a building – (a) means – (i) the manager of the building; or (ii) a person who is accustomed or obliged to act in accordance with the directions or instructions of the manager in connection with substantive matters in respect of the procurement, regardless of whether the directions or instructions are made to the person directly or indirectly; and (b) does not include a member, secretary or treasurer of the management committee in respect of the building.

¹⁰⁰ **Management committee** means a management committee appointed under sections 3, 3A, 4 or 40C of the BMO (see section 2(1) of the BMO)

¹⁰¹ Paragraph 9 of Schedule 6B and paragraph 22 of Schedule 7 to the BMO

¹⁰² Paragraph 11 of Schedule 6B and paragraph 24 of Schedule 7 to the BMO

¹⁰³ Paragraph 12 of Schedule 6B and paragraph 25 of Schedule 7 to the BMO

¹⁰⁴ Section 2(1) of the BMO

pecuniary or other personal interest in a tender submitted, or any connection with a person who has submitted a tender, he has to make a declaration¹⁰⁵ in the specified form¹⁰⁶ to a specified person¹⁰⁷.

- (c) Within 7 days after the declaration is made, a notice of the declaration has to be displayed in a prominent place in the property for at least 7 consecutive days¹⁰⁸.
- (d) A copy of the declaration has to be produced to the owners at the first procurement meeting of the owners/MC (if applicable) since the making of the declaration, and a copy of the declaration notice has to be attached to the minutes of the relevant owners' meeting¹⁰⁹.
- (e) A copy of the declaration has to be kept during the period of 6 years after the date on which the relevant procurement contract is entered into, and a specified person has to be permitted to inspect the copy at any reasonable time¹¹⁰.
- (f) Unless in an exempt situation, a responsible person for the procurement who has made a declaration must not participate in any assessment of tenders or any negotiation or other activity relating to the procurement¹¹¹.

I(3) Additional declaration requirement –

For Large-scale Maintenance Procurement¹¹², a licensed PMC has to make additional declaration according to the requirement, which includes the following:

- (a) Before the first tender acceptance meeting¹¹³ is held, **every**

¹⁰⁵ Paragraph 10 of Schedule 6B and paragraph 23 of Schedule 7 to the BMO

¹⁰⁶ Paragraph 11 of Schedule 6B and paragraph 24 of Schedule 7 to the BMO

¹⁰⁷ Paragraph 12 of Schedule 6B and paragraph 25 of Schedule 7 to the BMO

¹⁰⁸ Paragraph 26 of Schedule 7 to the BMO

¹⁰⁹ Paragraph 14 of Schedule 6B and paragraph 27 of Schedule 7 to the BMO

¹¹⁰ Paragraph 28 of Schedule 7 to the BMO. *Specified person* means – (a) an owner; (b) a registered mortgagee; or (c) any person duly authorized in writing by an owner or registered mortgagee to conduct an inspection mentioned in paragraph 28(2).

¹¹¹ Paragraph 16 of Schedule 6B and paragraph 29 of Schedule 7 to the BMO

¹¹² Section 2E of the BMO

¹¹³ Section 2(1) of the BMO. *First tender acceptance meeting*, in relation to any large-scale maintenance procurement, means – (a) if there is a corporation – the first general meeting of the corporation convened under Schedule 3; or (b) if there is no corporation – the first meeting of owners convened under the deed of mutual covenant, at which the question whether a tender submitted for the procurement is to be accepted or not is considered.

responsible person¹¹⁴ for the procurement (if there is OC)/the licensed PMC as Manager (and requiring the person responsible for the procurement) (if there is no OC) has to declare in a specified form¹¹⁵ to a specified person¹¹⁶ that he does not have any pecuniary/other personal dealing or connection with any member of the MC (if there is OC)/owners' committee (if there is no OC) except for the dealing or connection so declared¹¹⁷.

- (b) Before the first tender acceptance meeting is held, **every** responsible person¹¹⁸ for the procurement (if there is OC)/the licensed PMC as Manager (and requiring the person responsible for the procurement) (if there is no OC) has to declare in a specified form¹¹⁹ to a specified person¹²⁰ that he does not have any pecuniary/other personal interest in the tender submitted or any connection with a person who has submitted the tender, except for the interest or connection so declared¹²¹.
- (c) For every declaration, it is necessary to ensure that a document in respect of the declaration for the relevant procurement is attached to the minutes of the first tender acceptance meeting¹²².
- (d) A copy of the declaration has to be kept during the period of 6 years after the date on which the relevant procurement contract is entered into, and a specified person has to be

¹¹⁴ Section 2(1) of the BMO. **Responsible person**, in relation to the procurement of any supplies, goods or services for a building – (a) means – (i) the manager of the building; or (ii) a person who is accustomed or obliged to act in accordance with the directions or instructions of the manager in connection with substantive matters in respect of the procurement, regardless of whether the directions or instructions are made to the person directly or indirectly; and (b) does not include a member, secretary or treasurer of the management committee in respect of the building.

¹¹⁵ Paragraph 24 of Schedule 6B and paragraph 33 of Schedule 7 to the BMO

¹¹⁶ Paragraph 25 of Schedule 6B and paragraph 34 of Schedule 7 to the BMO

¹¹⁷ Paragraph 22 of Schedule 6B and paragraph 31 of Schedule 7 to the BMO

¹¹⁸ Section 2(1) of the BMO

¹¹⁹ Paragraph 24 of Schedule 6B and paragraph 33 of Schedule 7 to the BMO

¹²⁰ Paragraph 25 of Schedule 6B and paragraph 34 of Schedule 7 to the BMO

¹²¹ Paragraph 23 of Schedule 6B and paragraph 32 of Schedule 7 to the BMO

¹²² Paragraph 35 of Schedule 7 to the BMO

permitted to inspect the copy at any reasonable time¹²³.

I(4) Specific procedures at meeting –

Regarding Large-scale Maintenance Procurement¹²⁴, a licensed PMC has to comply with the specific procedures at owners' meeting, where the owners, by owners resolution, decide whether to accept a tender, or to vary or terminate a contract entered into for procurement¹²⁵. The specific procedures include the following:

- (a) Notice of meeting – if a resolution is proposed in an owners' meeting, the statement specifying the proposed resolution has to be titled “Important Reminder” in English and “重要提示” in Chinese. The estimated amount to be contributed from the building management fund and the estimated apportioned amount that each of the owners is to contribute also has to be set out clearly in the notice of meeting¹²⁶.
- (b) Voting-in-person threshold – At least 5% of the owners or 100 owners (whichever is the lesser) has to vote in person in order to pass a resolution on large-scale maintenance procurement/variation or termination of a related contract¹²⁷.
- (c) Minutes of meeting – it has to contain a clear record of the total number of votes cast personally and the total number of votes cast by proxy¹²⁸, and each of the owners has to be supplied with a copy of the minutes for the meeting within 28 days after the date of the meeting¹²⁹.

¹²³ Paragraph 36 of Schedule 7 to the BMO. *Specified person* means – (a) an owner; (b) a registered mortgagee; or (c) any person duly authorized in writing by an owner or registered mortgagee to conduct an inspection mentioned in paragraph 36(2).

¹²⁴ Section 2E of the BMO

¹²⁵ Paragraph 46 of Schedule 7 to the BMO

¹²⁶ Paragraph 48 of Schedule 7 to the BMO

¹²⁷ Paragraph 49 of Schedule 7 to the BMO

¹²⁸ Paragraph 50 of Schedule 7 to the BMO

¹²⁹ Paragraph 51 of Schedule 7 to the BMO

- I(5) Keeping and permitting inspection of procurement documents –
- (a) A licensed PMC has to, for a retention period of 6 years after the date on which the procurement contract is entered into, keep all procurement documents¹³⁰.
 - (b) At the written request of not less than 5% of the owners, a licensed PMC has to, upon receipt of a reasonable copying charge, supply the owners with the hard copy of the procurement documents it is required to keep, or without imposing any charge, the copy in electronic form, within 28 days after the date of the request¹³¹.

Guide:

- i(1) A licensed PMC should, when acting in accordance with the requirement regarding procurement arrangements under the BMO, carefully read all the relevant provisions and act prudently in accordance with them¹³².
- i(2) A licensed PMC should, as far as reasonably practicable¹³³:
 - (a) establish guidelines by itself (in case there is no owners' organization) or establish guidelines after consulting the owners' organization (if any) on the value, approving procedures and authority for carrying out the procurement concerned;
 - (b) timely obtain market information in respect of the goods or services that it has to procure for providing PMSs, such as the prices of relevant goods or services provided by potential suppliers in the past, and records of previous procurement of identical or similar goods or services (if any);
 - (c) without contravening the provisions of the BMO, declare in writing any actual or potential conflict of interest arising from the procurement work in accordance with the guidelines issued by the Independent

¹³⁰ Paragraph 10 of Schedule 7 to the BMO. **Procurement document**, in relation to the procurement of any supplies, goods or services – (a) means a document – (i) that contains information that enables a person who inspects it to (whether with or without any other document) readily verify the financial liability incurred by the owners for the procurement; or (ii) that otherwise relates to the procurement, such as a tender document, copy of contract, statement of account and invoice; and (b) does not include a declaration made under Division 4 of Part 2 of Schedule 7 to the BMO.

¹³¹ Paragraph 11 of Schedule 7 to the BMO

¹³² Sections 28A-28M of the BMO and paragraphs 10-36 and 46-51 of Schedule 7 to the BMO

¹³³ 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>

Commission Against Corruption¹³⁴;

- (d) arrange for employees to participate in workshop or seminar 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 invitation to tender documents) in a safe place, and upon the written request of the owners' organization (if any) (if applicable) or under a statutory requirement, timely provide the concerned information for inspection.

Procedure at meeting of owners

Code: J(1) *General procedure –*

- (a) A licensed PMC has to, at least 14 days before the date of the meeting, give notice of the meeting to each owner. The notice of meeting must specify the date, time and place of the meeting; and the resolutions (if any) that are to be proposed at the meeting¹³⁵.
- (b) A licensed PMC has to display the minutes of proceedings in a prominent place in the property for at least 7 consecutive days within 28 days after the date of the meeting to which the minutes relate, and keep the minutes during the period of 6 years after the date of the meeting¹³⁶.
- (c) If a specified person requests in writing, a licensed PMC has to, upon receipt of a reasonable copying charge, supply him with the hard copy of the minutes of the proceedings, or without

¹³⁴ 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/Building_Maintenance_Toolkit.html?lang=en

¹³⁵ Paragraph 39 of Schedule 7 to the BMO

¹³⁶ Paragraph 40 of Schedule 7 to the BMO

imposing any charge, the copy in electronic form, within 28 days after the date on which the request is made¹³⁷.

Guide:

- j(1) A licensed PMC should adopt appropriate and proper measures and regularly update these measures to ensure compliance with the requirement on procedure at meeting of owners in Schedule 7 to the BMO.

Control, management and administration of a property

Code: K(1) *Cooperating with relevant Government department in respect of the control, management or administration of a property –*

If relevant Government department, for the purpose of ascertaining the manner in which a property is being controlled, managed or administered:

- (a) enters and inspects any common parts of the property;
- (b) attends any general meeting of the OC¹³⁸;
- (c) requires the OC¹³⁹ or licensed PMC to furnish it with such information in the possession of the OC¹⁴⁰ or licensed PMC, as it may specify in relation to the control, management and administration of the property;
- (d) inspects the relevant books or records of account and other records; and
- (e) inspects any documents or records kept by the OC¹⁴¹ in relation to any of its functions, duties or powers;

then the licensed PMC has to cooperate and provide the concerned information¹⁴² (if applicable) in an accurate manner.

¹³⁷ Paragraph 41 of Schedule 7 to the BMO. *Specified person* means – (a) an owner; (b) a registered mortgagee; or (c) any person duly authorized in writing by an owner or registered mortgagee to make a request mentioned in paragraph 41(1).

¹³⁸ See footnote 18 of this Guide

¹³⁹ See footnote 18 of this Guide

¹⁴⁰ See footnote 18 of this Guide

¹⁴¹ See footnote 18 of this Guide

¹⁴² Section 40A of the BMO

Guide:

- k(1) A licensed PMC should adopt appropriate and proper measures to ensure compliance with the requirement in section 40A of the BMO.

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

- Code:** L(1) For a property that has an OC¹⁴³, a licensed PMC, as far as reasonably practicable, has to assist and remind the OC¹⁴⁴ to comply with the relevant requirements under the BMO that apply to the OC¹⁴⁵, and remind the OC¹⁴⁶ to act in accordance with the BMO. The requirements under the BMO relating to property management mainly cover the following matters:
- (a) MC and owners' general meeting;
 - (b) Financial matters;
 - (c) Procurement of supplies, goods or services;
 - (d) Building insurance; and
 - (e) Facility management and safety of the property (including environmental hygiene, security, slope safety, lift installation safety, etc.).
- (For details of the requirement of paragraphs L(1)(a)-(e) of this Code, refer to **Annex 1**)
- L(2) If relevant Government department, for the purpose of ascertaining the manner in which a property is being controlled, managed or administered:
- (a) enters and inspects any common parts of the property;
 - (b) attends any general meeting of the OC¹⁴⁷;
 - (c) requires the OC¹⁴⁸ or licensed PMC to furnish it with such information in the possession of the OC¹⁴⁹ or licensed PMC, as

¹⁴³ See footnote 18 of this Guide

¹⁴⁴ See footnote 18 of this Guide

¹⁴⁵ See footnote 18 of this Guide

¹⁴⁶ See footnote 18 of this Guide

¹⁴⁷ See footnote 18 of this Guide

¹⁴⁸ See footnote 18 of this Guide

¹⁴⁹ See footnote 18 of this Guide

it may specify in relation to the control, management and administration of the property;

(d) inspects the relevant books or records of account and other records; and

(e) inspects any documents or records kept by the OC¹⁵⁰ in relation to any of its functions, duties or powers;

then the licensed PMC has to remind the OC¹⁵¹ to cooperate and provide the concerned information¹⁵² (if applicable) in an accurate manner.

L(3) If the scope of work agreed between a licensed PMC and an OC¹⁵³ includes the property management matters referred to in paragraphs L(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:

I(1) A licensed PMC should remind the OC¹⁵⁴ to carefully read all the relevant provisions of the BMO and act prudently in accordance with them.

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

Code: M(1) For a property that has an owners' committee¹⁵⁵, a licensed PMC, as far as reasonably practicable, has to assist and remind the owners' committee¹⁵⁶ to comply with the requirements in Schedule 8¹⁵⁷ to the BMO that apply to the owners' committee¹⁵⁸, and remind the owners' committee¹⁵⁹ to act in accordance with such requirements.

¹⁵⁰ See footnote 18 of this Guide

¹⁵¹ See footnote 18 of this Guide

¹⁵² Section 40A of the BMO

¹⁵³ See footnote 18 of this Guide

¹⁵⁴ See footnote 18 of this Guide

¹⁵⁵ See footnote 19 of this Guide

¹⁵⁶ See footnote 19 of this Guide

¹⁵⁷ 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.

¹⁵⁸ See footnote 19 of this Guide

¹⁵⁹ See footnote 19 of this Guide

Schedule 8 mainly sets out the requirements for the meetings of owners' committee¹⁶⁰ and the meetings of owners. (Refer to **Annex 2** for relevant requirement)

Guide:

- m(1) A licensed PMC should remind the owners committee¹⁶¹ (if any) to carefully read all the relevant provisions of Schedule 8 to the BMO and act prudently in accordance with them.

— 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.

¹⁶⁰ See footnote 19 of this Guide

¹⁶¹ See footnote 19 of this Guide

Requirement under the BMO which a licensed PMC has to remind an OC to comply with mainly include:

- (1) MC and owners' general meeting
 - (a) the MC shall meet at least once in every period of 3 months¹.
 - (b) the MC shall convene and hold meeting in accordance with the requirement in Schedule 2 to the BMO, which include giving notice of meeting, preparing minutes of meeting and keeping record, etc.². The requirement includes:
 - (i) for every MC meeting, the MC must display the certified minutes in a prominent place in the property within 28 days after the date of the meeting for at least 7 consecutive days³.
 - (ii) certified minutes for MC meeting must be kept for 6 years⁴. Unless a defence is established, the relevant person who is accountable⁵ for the contravention is liable on conviction to a fine at level 4 (i.e. \$25,000)⁶.
 - (iii) if a specified person requests, in writing, the OC⁷ to supply him with a copy of the certified minutes for MC meeting, the MC must, upon receipt of a reasonable copying charge, supply him with the hard copy, or without imposing any charge, the copy in electronic form, within 28 days after the date on which the request is made⁸.
 - (iv) the MC must, within 28 days after the date of a meeting of the MC, supply each of the owners with a copy of the certified minutes for the meeting if a tender submitted for any large-scale maintenance procurement⁹ in respect of the property has been assessed at the meeting, or a proposal for varying or terminating a contract for such

¹ Paragraph 7 of Schedule 2 to the BMO

² Schedule 2 to the BMO

³ Paragraph 10(4B) of Schedule 2 to the BMO

⁴ Note of Paragraph 10(4B) of Schedule 2 to the BMO and section 36A(1)(a) of the BMO

⁵ Section 2C of the BMO. Regarding MC, the relevant criminal liability is imposed on the "accountable" participants of the MC (instead of each participant of the MC). The "accountable" person is the person who has assumed responsibility as a participant of the MC at the time when the contravention of the legal provisions occurs.

⁶ Note of Paragraph 10(4B) of Schedule 2 to the BMO and sections 36A(4)-36A(9) of the BMO

⁷ See footnote 18 of this Guide

⁸ Paragraph 10A of Schedule 2 to the BMO. *Specified person* means – (a) an owner; (b) the tenants' representative; (c) a registered mortgagee; or (d) any person duly authorized in writing by an owner or registered mortgagee to make a request mentioned in paragraph 10A(1).

⁹ Section 2E of the BMO

procurement category has been considered at the meeting¹⁰.

- (c) the MC shall convene annual general meeting of the OC¹¹ regularly, and at the written request of not less than 5% of the owners, convene and hold a general meeting of the OC^{12, 13}.
- (d) the MC shall convene and hold general meeting of the OC¹⁴ in accordance with the requirement in Schedule 3 to the BMO, which include, giving notice of meeting, collecting and handling instrument appointing proxy, preparing minutes of meeting and keeping record, etc.¹⁵. The requirement includes:
 - (i) the secretary of the MC shall, at least 14 days before the date of the meeting of the OC¹⁶, give notice of the meeting to each owner and the tenants' representative (if any). The notice of meeting shall specify the date, time, place of the meeting, and the resolutions (if any) that are to be proposed at the meeting or other matters that are to be discussed at the meeting¹⁷.
 - (ii) corporate flat owners may, by way of an authorization notice, authorize a natural person to attend general meetings of the OCs¹⁸ on their behalf, and to vote for them personally. The authorization notice must be given in the specified form, impressed with the corporate flat owner's seal or chop, signed by a person authorized by the corporate flat owner in that behalf, and must be given to the secretary of the MC at least 48 hours before the time for the holding of the meeting¹⁹.
 - (iii) For OC²⁰ meeting, the secretary of the MC must set out on a list every flat in respect of which an authorization notice was given as mentioned above, and display the list in a prominent place in the place of the meeting before the time for the holding of the meeting until the conclusion of the meeting²¹.

¹⁰ Paragraph 10B of Schedule 2 to the BMO

¹¹ See footnote 18 of this Guide

¹² See footnote 18 of this Guide

¹³ Paragraph 1 of Schedule 3 to the BMO

¹⁴ See footnote 18 of this Guide

¹⁵ Schedule 3 to the BMO

¹⁶ See footnote 18 of this Guide

¹⁷ Paragraphs 2(1) and 2(1AA) of Schedule 3 to the BMO

¹⁸ See footnote 18 of this Guide

¹⁹ Paragraphs 4A and 4B of Schedule 3 to the BMO

²⁰ See footnote 18 of this Guide

²¹ Paragraph 4A(6) of Schedule 3 to the BMO

- (iv) for every meeting of the OC²², the MC shall display the certified minutes in a prominent place in the property within 28 days of the date of the meeting of the OC²³ for at least 7 consecutive days²⁴.
- (v) if a specified person requests, in writing, the OC²⁵ to supply him with a copy of the certified minutes for a meeting of the OC²⁶, the MC must, upon receipt of a reasonable copying charge, supply him with the hard copy, or without imposing any charge, the copy in electronic form, within 28 days after the date on which the request is made²⁷.
- (vi) certified minutes of a meeting of the OC²⁸ must be kept for 6 years²⁹, and proxy instrument lodged for the meeting must be kept for 12 months after the conclusion of the meeting³⁰. Authorization notice given by a corporate flat owner for the meeting of the OC must be kept for 3 years after the conclusion of the meeting³¹. Unless a defence is established, the relevant person who is accountable³² for the contravention of the requirement on keeping the relevant documents is liable on conviction to a fine at level 4 (i.e. \$25,000)³³.

(2) Financial matters

- (a) the MC shall prepare the annual budget of the OC³⁴, setting out the sums of various expenses³⁵ and determine the amount to be contributed by the owners^{36, 37}.
- (b) regarding the books of the OC³⁸, the MC shall:

²² See footnote 18 of this Guide

²³ See footnote 18 of this Guide

²⁴ Paragraphs 6(1) and 6(3) of Schedule 3 to the BMO

²⁵ See footnote 18 of this Guide

²⁶ See footnote 18 of this Guide

²⁷ Paragraph 6A of Schedule 3 to the BMO

²⁸ See footnote 18 of this Guide

²⁹ Note of paragraph 6(3) of Schedule 3 to the BMO and section 36A(1)(b) of the BMO

³⁰ Note of paragraph 4 of Schedule 3 to the BMO and section 36A(2) of the BMO

³¹ Note of paragraph 4A of Schedule 3 to the BMO and section 36A(3) of the BMO

³² Section 2C of the BMO and footnote 5 of this Annex

³³ Sections 36A(4)-36A(9) of the BMO

³⁴ See footnote 18 of this Guide

³⁵ Schedule 5 to the BMO

³⁶ Section 21 of the BMO and paragraph 1 of Schedule 5 to the BMO

³⁷ Section 22 of the BMO

³⁸ See footnote 18 of this Guide

- (i) prepare, within 15 months after the date of the registration of the OC³⁹ and thereafter every 12 months, financial statements. A copy of the financial statements shall be displayed in a prominent place in the property for at least 7 consecutive days. MC shall also produce a copy of the financial statements to OC⁴⁰ at the first annual general meeting of the OC⁴¹ convened after such financial statements are available⁴².
- (ii) for property with total annual income or expenditure (or both) exceeding \$500,000 per year, regardless of the number of flats, have their financial statements properly audited⁴³. If the financial statements are required to be audited, the MC has to display a copy of the audited financial statements and a copy of the accountant's report in a prominent place in the property for at least 7 consecutive days, and produce a copy of the financial statements and a copy of the accountant's report to OC⁴⁴ at the first annual general meeting of the OC⁴⁵ convened after the accountant's report is obtained⁴⁶.
- (iii) keep each bill, invoice, voucher, receipt or any other document referred to in the accounting documents for 6 years after the date on which the document is obtained⁴⁷. Unless a defence is established, the relevant person who is accountable⁴⁸ for the contravention is liable on conviction to a fine at level 4 (i.e. \$25,000)⁴⁹.
- (iv) if a specified person requests in writing, upon receipt of a reasonable copying charge, supply him with the hard copy of the financial statements and the accountant's report (if applicable), or the summary of the income and expenditure, or without imposing any charge, the copy in electronic form, within 28 days after the date on which the request is made⁵⁰.

³⁹ See footnote 18 of this Guide

⁴⁰ See footnote 18 of this Guide

⁴¹ See footnote 18 of this Guide

⁴² Sections 27(1) and 27(7)(b) of the BMO

⁴³ Sections 27(2)(c), 27(3) and 27(4) of the BMO

⁴⁴ See footnote 18 of this Guide

⁴⁵ See footnote 18 of this Guide

⁴⁶ Section 27(7)(a) of the BMO

⁴⁷ Section 27(6) of the BMO

⁴⁸ Section 2C of the BMO and footnote 5 of this Annex

⁴⁹ Section 27A(2) of the BMO

⁵⁰ Section 27B of the BMO and paragraph 3 of Schedule 6 to the BMO. *Specified person* means – (a) an owner; (b) the

- (3) Procurement of supplies, goods or services
- (a) the MC shall handle procurement matters (including the three specified procurement categories (i.e. Type 1 High-value Procurement⁵¹, Type 2 High-value Procurement⁵² and Large-scale Maintenance Procurement⁵³)) in accordance with the relevant requirement⁵⁴.
 - (b) the participants of the MC⁵⁵ (i.e. MC members, secretary and treasurer) shall make declaration regarding the three specified procurement categories (i.e. Type 1 High-value Procurement⁵⁶, Type 2 High-value Procurement⁵⁷ and Large-scale Maintenance Procurement⁵⁸) in accordance with the relevant requirement⁵⁹.
 - (c) the participants of the MC⁶⁰ (i.e. MC members, secretary and treasurer) shall make declaration regarding Large-scale Maintenance Procurement⁶¹ in accordance with the additional requirement⁶².
 - (d) regarding Large-scale Maintenance Procurement⁶³, specific procedures at a general meeting of the OC⁶⁴ shall be complied with to decide, by owners resolution, whether to accept a tender, or to vary or terminate a contract entered into for procurement⁶⁵.
 - (e) the MC shall, for a retention period of 6 years after the date on which the procurement contract is entered into, keep all procurement documents (e.g. tender documents, copies of contracts, statements of account and invoices, etc.). Unless a defence is established, the relevant person who is accountable⁶⁶

tenants' representative; (c) a registered mortgagee; or (d) any person duly authorized in writing by an owner or registered mortgagee to make a request mentioned in paragraph 3(1).

⁵¹ Sections 2D(1)(a) and 2D(2)-2D(6) of the BMO

⁵² Sections 2D(1)(b) and 2D(2)-2D(6) of the BMO

⁵³ Section 2E of the BMO

⁵⁴ Sections 28A-28M of the BMO and Schedule 6A to the BMO

⁵⁵ Section 2(4) of the BMO

⁵⁶ Sections 2D(1)(a) and 2D(2)-2D(6) of the BMO

⁵⁷ Sections 2D(1)(b) and 2D(2)-2D(6) of the BMO

⁵⁸ Section 2E of the BMO

⁵⁹ Paragraphs 1-4 of Schedule 6B to the BMO

⁶⁰ Section 2(4) of the BMO

⁶¹ Section 2E of the BMO

⁶² Paragraphs 17-19 of Schedule 6B to the BMO

⁶³ Section 2E of the BMO

⁶⁴ See footnote 18 of this Guide

⁶⁵ Schedule 6C to the BMO

⁶⁶ Section 2C of the BMO and footnote 5 of this Annex

for the contravention is liable on conviction to a fine at level 4 (i.e. \$25,000)⁶⁷.

- (f) at the written request of not less than 5% of the owners, the MC shall, upon receipt of a reasonable copying charge, supply the requesters with the hard copy of the procurement documents it is required to keep, or without imposing any charge, the copy in electronic form, within 28 days after the date of the request⁶⁸.
- (g) For details of the transitional arrangements regarding procurement requirement under the Amendment Ordinance, please refer to the Amendment Ordinance⁶⁹.

(4) Building insurance

- (a) a licensed PMC has to remind the OC⁷⁰ 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 OC⁷¹ covering third party risks in compliance with the relevant requirement (including minimum insured amount (if applicable)). Unless a defence is established, the relevant person who is accountable⁷² for the contravention is liable on conviction to a fine at level 5 (i.e. \$50,000)⁷³.

(5) Facility management and safety of the property

- (a) a licensed PMC has to remind the OC⁷⁴ to comply with the standards and guidelines specified in the “Code of Practice on Building Management and Safety” issued by the Secretary for Home and Youth Affairs under section 44(1)(b) of the BMO and the relevant Codes of Conduct issued by the PMSA⁷⁵ from time to time regarding management and maintenance of common parts,

⁶⁷ Section 28B of the BMO. **Procurement document**, in relation to the procurement of any supplies, goods or services – (a) means a document – (i) that contains information that enables a person who inspects it to (whether with or without any other document) readily verify the financial liability incurred by the corporation for the procurement; or (ii) that otherwise relates to the procurement, such as a tender document, copy of contract, statement of account and invoice; and (b) does not include a declaration made under Schedule 6B to the BMO.

⁶⁸ Section 28C of the BMO

⁶⁹ For transitional arrangements on procurement requirements under the Amendment Ordinance, refer to section 44B of the BMO.

⁷⁰ See footnote 18 of this Guide

⁷¹ See footnote 18 of this Guide

⁷² Section 2C of the BMO and footnote 5 of this Annex

⁷³ Section 28 of the BMO

⁷⁴ See footnote 18 of this Guide

⁷⁵ Codes of Conduct issued by the PMSA:

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

environmental hygiene, security, water utilities and supply, fire safety, building safety, slope safety, tree safety, electrical, gas, lift and escalator installations of the property⁷⁶.

⁷⁶ For details, please refer to the “*Code of Practice on Fire Management and Safety*” (Revised Version Effective from 1 September, 2018) issued by the Secretary for Fire and Youth Affairs under section 44(1)(b) of the BMO:
[https://www.buildingmgt.gov.hk/file_manager/en/docs/code_of_practice/221805064_HAD%20\(eng\)\(full\).pdf](https://www.buildingmgt.gov.hk/file_manager/en/docs/code_of_practice/221805064_HAD%20(eng)(full).pdf)

Requirement under Schedule 8 to the BMO which a licensed PMC has to remind an owners' committee to comply with mainly include:

- (1) Owners' committee¹ meeting
 - (a) a meeting of the owners' committee² may be convened at any time by the chairman or any 2 members of the owners' committee^{3, 4};
 - (b) the person or persons convening the meeting of the owners' committee⁵ shall, at least 7 days before the date of the meeting, give notice of the meeting to each member of the owners' committee^{6, 7};
 - (c) the quorum at a meeting of the owners' committee⁸ shall be 50% of the members of the owners' committee⁹ (rounded up to the nearest whole number) or 3 such members, whichever is the greater¹⁰; and
 - (d) the procedure at meetings of the owners' committee¹¹ shall be as is determined by the owners' committee^{12, 13}.
- (2) Meeting of owners
 - (a) a meeting of owners may be convened by¹⁴:
 - (i) the owners' committee¹⁵;
 - (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 quorum at a meeting of owners convened under the DMC is 10% of the owners¹⁶.

¹ See footnote 19 of this Guide

² See footnote 19 of this Guide

³ See footnote 19 of this Guide

⁴ Paragraph 1 of Schedule 8 to the BMO

⁵ See footnote 19 of this Guide

⁶ See footnote 19 of this Guide

⁷ Paragraph 2 of Schedule 8 to the BMO

⁸ See footnote 19 of this Guide

⁹ See footnote 19 of this Guide

¹⁰ Paragraph 4 of Schedule 8 to the BMO

¹¹ See footnote 19 of this Guide

¹² See footnote 19 of this Guide

¹³ Paragraph 7 of Schedule 8 to the BMO

¹⁴ Paragraph 8 of Schedule 8 to the BMO

¹⁵ See footnote 19 of this Guide

¹⁶ Paragraph 11 of Schedule 8 to the BMO

- (c) the procedure at a meeting of owners convened under the DMC is as is determined by the owners¹⁷.

¹⁷ Paragraph 15 of Schedule 8 to the BMO



Related Code of Conduct

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