

Chapter:	344	BUILDING MANAGEMENT ORDINANCE	Gazette Number	Version Date
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		Long title		30/06/1997
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To facilitate the incorporation of owners of flats in buildings or groups of buildings, to provide for the management of buildings or groups of buildings and for matters incidental thereto or connected therewith.

(Amended 27 of 1993 s. 2)

[19 June 1970]

(Originally 62 of 1970)

Section:	1	Short title		30/06/1997
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## PART I

### SHORT TITLE AND INTERPRETATION

This Ordinance may be cited as the Building Management Ordinance.

(Amended 27 of 1993 s. 3)

Section:	2	Interpretation	L.N. 92 of 2007	01/08/2007
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In this Ordinance, unless the context otherwise requires-

"accountant" (會計師) means a certified public accountant (practising) within the meaning of the Professional Accountants Ordinance (Cap 50); (Added 27 of 1993 s. 4. Amended 23 of 2004 s. 56)

"administrator" (管理人) means a person appointed as an administrator under section 30 or 31;

"Authority" (主管當局) means the Secretary for Home Affairs; (Added 27 of 1993 s. 4)

"authorized officer" (獲授權人員) means any public officer authorized in writing by the Authority in that behalf; (Added 27 of 1993 s. 4)

"building" (建築物) means-

- (a) any building which contains any number of flats comprising 2 or more levels, including basements or underground parking areas;
- (b) any land upon which that building is erected; and
- (c) any other land (if any) which-
  - (i) is in common ownership with that building or land; or
  - (ii) in relation to the appointment of a management committee under section 3, 3A, 4 or 40C or any application in respect thereof, is owned or held by any person for the common use, enjoyment and benefit (whether exclusively or otherwise) of the owners and occupiers of the flats in that building; (Replaced 27 of 1993 s. 4. Amended 5 of 2007 s. 3)

"Code of Practice" (工作守則) means any Code of Practice prepared, revised or issued from time to time by the Authority under section 44; (Added 27 of 1993 s. 4. Amended 69 of 2000 s. 2)

"common parts" (公用部分) means-

- (a) the whole of a building, except such parts as have been specified or designated in an instrument registered in the Land Registry as being for the exclusive use, occupation or enjoyment of an owner; and (Amended 8 of 1993 s. 2)
- (b) unless so specified or designated, those parts specified in Schedule 1; (Amended 5 of 2007 s. 40)

"convenor" (召集人)-

- (a) in relation to a meeting of owners convened under section 3, means the person referred to in section 3(1)(a) or (b) or the owner appointed under section 3(1)(c);
- (b) in relation to a meeting of owners convened under section 3A, means the owner directed under section 3A(1);

- (c) in relation to a meeting of owners convened under section 4, means the owner directed under section 4(1); or
- (d) in relation to a meeting of owners convened under section 40C, means the owner named in the order made under section 40C(1); (Added 5 of 2007 s. 3)

"corporation" (法團) means a corporation registered under section 8;

"deed of mutual covenant" (公契) means a document which-

- (a) defines the rights, interests and obligations of owners among themselves; and
- (b) is registered in the Land Registry; (Amended 8 of 1993 s. 2)

"estate" (屋邨) means the buildings or groups of buildings the subject of an application under section 34E(6); (Added 27 of 1993 s. 4)

"exempt estate" (獲豁免屋邨) means-

- (a) any estate specified in Schedule 9; (Amended 5 of 2007 s. 40)
- (b) any estate added to that Schedule under section 34E(6); (Added 27 of 1993 s. 4)

"flat" (單位) means any premises in a building which are referred to in a deed of mutual covenant whether described therein as a flat or by any other name and whether used as a dwelling, shop, factory, office or for any other purpose, of which the owner, as between himself and owners or occupiers of other parts of the same building, is entitled to the exclusive possession;

"Land Registrar" (土地註冊處處長) includes, in relation to buildings on land in the New Territories, the Authority, save that only the Land Registrar may specify forms; (Replaced 20 of 2002 s. 5)

"Land Registry" (土地註冊處) means the Land Registry established under the Land Registration Ordinance (Cap 128); (Replaced 20 of 2002 s. 5)

"management committee" (管理委員會) means a management committee appointed under section 3, 3A, 4 or 40C; (Amended 27 of 1993 s. 4; 5 of 2007 s. 3)

"member" (委員), in relation to a management committee, means a person appointed as a member of the management committee under section 14(2) or paragraph 2(1)(b), 5(2)(a), 6 or 6A of Schedule 2; (Added 5 of 2007 s. 3)

"occupier" (佔用人) means a tenant, sub-tenant or other person in lawful occupation of a flat, but does not include an owner of that flat; (Added 27 of 1993 s. 4)

"owner" (業主) means-

- (a) a person who for the time being appears from the records at the Land Registry to be the owner of an undivided share in land on which there is a building; and (Amended 8 of 1993 s. 2)
- (b) a registered mortgagee in possession of such share;

"register" (登記冊) means the register of corporations maintained under section 12;

"registered mortgagee" (已登記承按人) means-

- (a) a person to whom an owner's interest in a building has been mortgaged or charged under a mortgage or charge which has been registered in the Land Registry; and (Amended 8 of 1993 s. 2)
- (b) a person in whose favour a charge upon a flat has been created by virtue of any Ordinance;

"share" (份數) means the share of an owner in a building determined in accordance with section 39;

"tenants' representative" (租客代表) means the tenants' representative appointed under section 15(1); (Added 27 of 1993 s. 4)

"tribunal" (審裁處) means the Lands Tribunal established under section 3 of the Lands Tribunal Ordinance (Cap 17). (Added 27 of 1993 s. 4)

(Amended 27 of 1993 s. 4)

Section:	2A	(Repealed 27 of 1993 s. 5)		30/06/1997
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Section:	2B	References to majority of votes	L.N. 92 of 2007	01/08/2007
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For the avoidance of doubt, in determining whether a resolution is passed by a majority of the votes of owners, or members of a management committee, at a meeting convened under this Ordinance, the following shall be disregarded—

- (a) owners or members, as the case may be, who are not present at the meeting;
- (b) owners or members, as the case may be, who are present at the meeting but do not vote;
- (c) blank or invalid votes;
- (d) abstentions.

(Added 5 of 2007 s. 4)

Section:	3	Appointment of management committee	L.N. 92 of 2007	01/08/2007
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## PART II

### MANAGEMENT COMMITTEE

- (1) A meeting of the owners to appoint a management committee may be convened by—
  - (a) any person managing the building in accordance with the deed of mutual covenant (if any); or
  - (b) any other person authorized to convene such a meeting by the deed of mutual covenant (if any); or
  - (c) one owner appointed to convene such a meeting by the owners of not less than 5% of the shares in aggregate. (Replaced 5 of 2007 s. 5)
- (2) At a meeting of owners convened under this section, the owners may, by a resolution—
  - (a) passed by a majority of the votes of the owners voting either personally or by proxy; and
  - (b) supported by the owners of not less than 30% of the shares in aggregate,
 appoint a management committee. (Replaced 5 of 2007 s. 5)
- (3) The convenor shall, at least 14 days before the date of the meeting of owners, give notice of the meeting to each owner and—
  - (a) where the convenor is the person referred to in subsection (1)(a), to the person referred to in subsection (1)(b) (if any);
  - (b) where the convenor is the person referred to in subsection (1)(b), to the person referred to in subsection (1)(a) (if any); or
  - (c) where the convenor is the owner appointed under subsection (1)(c), to the person referred to in subsection (1)(a) or (b) (if any). (Added 5 of 2007 s. 5)
- (4) The notice of meeting shall specify—
  - (a) the date, time and place of the meeting; and
  - (b) the resolutions that are to be proposed at the meeting and are related only to the appointment of a management committee and the incorporation of the owners. (Added 5 of 2007 s. 5)
- (5) The notice of meeting may be given—
  - (a) in the case of an owner—
    - (i) by delivering it personally to the owner;
    - (ii) by sending it by post to the owner at his last known address; or
    - (iii) by leaving it at the owner's flat or depositing it in the letter box for that flat; or
  - (b) in the case of a person referred to in subsection (1)(a) or (b)—
    - (i) by delivering it personally to the person; or
    - (ii) by sending it by post to the person at his last known address. (Added 5 of 2007 s. 5)
- (6) The convenor shall also, at least 14 days before the date of the meeting of owners, display the notice of meeting in a prominent place in the building. (Added 5 of 2007 s. 5)
- (7) The convenor shall preside at a meeting of owners convened under this section. (Added 5 of 2007 s. 5)
- (8) The quorum at a meeting of owners convened under this section shall be 10% of the owners. (Added 5 of 2007 s. 5)
- (9) At a meeting of owners convened under this section—
  - (a) an owner shall, unless the deed of mutual covenant (if any) otherwise provides, have one vote in respect of each share he owns;
  - (b) an owner may cast a vote personally or by proxy;
  - (c) where 2 or more persons are the co-owners of a share, the vote in respect of the share may be cast—
    - (i) by a proxy jointly appointed by the co-owners;
    - (ii) by a person appointed by the co-owners from amongst themselves; or

- (iii) if no appointment is made under subparagraph (i) or (ii), either by one of the co-owners personally or by a proxy appointed by one of the co-owners; and
- (d) where 2 or more persons are the co-owners of a share and more than one of the co-owners seeks to cast a vote in respect of the share, only the vote that is cast, whether personally or by proxy, by the co-owner whose name, in order of priority, stands highest in relation to that share in the register kept at the Land Registry shall be treated as valid. (Added 5 of 2007 s. 5)

(10) For the purposes of subsection (9)—

- (a) the instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and—
  - (i) shall be signed by the owner; or
  - (ii) if the owner is a body corporate, shall, notwithstanding anything to the contrary in its constitution, be impressed with the seal or chop of the body corporate and signed by a person authorized by the body corporate in that behalf;
- (b) the instrument appointing a proxy shall be lodged with the convenor at least 48 hours before the time for the holding of the meeting;
- (c) the instrument appointing a proxy is valid only if it is made and lodged in accordance with paragraphs (a) and (b);
- (d) a proxy appointed by an owner to attend and vote on behalf of the owner shall, for the purposes of the meeting, be treated as being the owner present at the meeting; and
- (e) where an instrument appointing a proxy is lodged with the convenor, the convenor shall—
  - (i) acknowledge receipt of the instrument by leaving a receipt at the flat of the owner who made the instrument, or depositing the receipt in the letter box for that flat, before the time for the holding of the meeting;
  - (ii) determine the validity of the instrument in accordance with paragraph (c); and
  - (iii) display information of the owner’s flat in a prominent place in the place of the meeting before the time for the holding of the meeting, and cause the information to remain so displayed until the conclusion of the meeting. (Added 5 of 2007 s. 5)

(11) Subject to subsection (12), the convenor shall keep all the instruments for the appointment of proxies that have been lodged with him for a period of at least 12 months after the conclusion of the meeting. (Added 5 of 2007 s. 5)

(12) Where a management committee is appointed at a meeting of owners convened under this section—

- (a) the convenor shall deliver to the management committee immediately after the conclusion of the meeting all the instruments for the appointment of proxies that have been lodged with him; and
- (b) the management committee shall keep the instruments for a period of at least 12 months after the conclusion of the meeting. (Added 5 of 2007 s. 5)

(13) Subject to subsection (14), where a meeting of owners convened under this section is adjourned, subsections (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12) shall apply to the adjourned meeting as they apply to the original meeting. (Added 5 of 2007 s. 5)

(14) Where a meeting of owners convened under this section is adjourned, a valid instrument appointing a proxy made for the purposes of the original meeting shall remain valid for the purposes of the adjourned meeting unless—

- (a) contrary intention is shown on the instrument;
- (b) the instrument is revoked; or
- (c) the instrument is replaced by a new instrument appointing a proxy. (Added 5 of 2007 s. 5)

(Amended 27 of 1993 s. 42)

Section:	3A	Appointment of management committee after application to the Authority	L.N. 92 of 2007	01/08/2007
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(1) The Authority may, upon application by the owners of not less than 20% of the shares in aggregate, order that a meeting of owners shall be convened, by such owner as the Authority may direct, to appoint a management committee. (Amended 69 of 2000 s. 4; 5 of 2007 s. 42)

(2) Any person referred to in section 3(1)(a) or (b) shall be entitled to attend a meeting of owners convened under this section.

(3) Subject to subsection (5), at a meeting of owners convened under this section, the owners may, by a resolution passed by a majority of the votes of the owners voting either personally or by proxy, appoint a management

committee.

(3A) The convenor shall, at least 14 days before the date of the meeting of owners, give notice of the meeting to each owner and the person referred to in section 3(1)(a) or (b) (if any). (Added 5 of 2007 s. 6)

(3B) The notice of meeting shall specify—

- (a) the date, time and place of the meeting; and
- (b) the resolutions that are to be proposed at the meeting and are related only to the appointment of a management committee and the incorporation of the owners. (Added 5 of 2007 s. 6)

(3C) The notice of meeting may be given—

- (a) in the case of an owner—
  - (i) by delivering it personally to the owner;
  - (ii) by sending it by post to the owner at his last known address; or
  - (iii) by leaving it at the owner's flat or depositing it in the letter box for that flat; or
- (b) in the case of a person referred to in section 3(1)(a) or (b)—
  - (i) by delivering it personally to the person; or
  - (ii) by sending it by post to the person at his last known address. (Added 5 of 2007 s. 6)

(3D) The convenor shall also, at least 14 days before the date of the meeting of owners, display the notice of meeting in a prominent place in the building. (Added 5 of 2007 s. 6)

(3E) The convenor shall preside at a meeting of owners convened under this section. (Added 5 of 2007 s. 6)

(3F) The quorum at a meeting of owners convened under this section shall be 10% of the owners. (Added 5 of 2007 s. 6)

(3G) At a meeting of owners convened under this section—

- (a) an owner shall, unless the deed of mutual covenant (if any) otherwise provides, have one vote in respect of each share he owns;
- (b) an owner may cast a vote personally or by proxy;
- (c) where 2 or more persons are the co-owners of a share, the vote in respect of the share may be cast—
  - (i) by a proxy jointly appointed by the co-owners;
  - (ii) by a person appointed by the co-owners from amongst themselves; or
  - (iii) if no appointment is made under subparagraph (i) or (ii), either by one of the co-owners personally or by a proxy appointed by one of the co-owners; and
- (d) where 2 or more persons are the co-owners of a share and more than one of the co-owners seeks to cast a vote in respect of the share, only the vote that is cast, whether personally or by proxy, by the co-owner whose name, in order of priority, stands highest in relation to that share in the register kept at the Land Registry shall be treated as valid. (Added 5 of 2007 s. 6)

(3H) For the purposes of subsection (3G)—

- (a) the instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and—
  - (i) shall be signed by the owner; or
  - (ii) if the owner is a body corporate, shall, notwithstanding anything to the contrary in its constitution, be impressed with the seal or chop of the body corporate and signed by a person authorized by the body corporate in that behalf;
- (b) the instrument appointing a proxy shall be lodged with the convenor at least 48 hours before the time for the holding of the meeting;
- (c) the instrument appointing a proxy is valid only if it is made and lodged in accordance with paragraphs (a) and (b);
- (d) a proxy appointed by an owner to attend and vote on behalf of the owner shall, for the purposes of the meeting, be treated as being the owner present at the meeting; and
- (e) where an instrument appointing a proxy is lodged with the convenor, the convenor shall—
  - (i) acknowledge receipt of the instrument by leaving a receipt at the flat of the owner who made the instrument, or depositing the receipt in the letter box for that flat, before the time for the holding of the meeting;
  - (ii) determine the validity of the instrument in accordance with paragraph (c); and
  - (iii) display information of the owner's flat in a prominent place in the place of the meeting before the time for the holding of the meeting, and cause the information to remain so displayed until the conclusion of the meeting. (Added 5 of 2007 s. 6)

(3I) Subject to subsection (3J), the convenor shall keep all the instruments for the appointment of proxies that have been lodged with him for a period of at least 12 months after the conclusion of the meeting. (Added 5 of 2007 s. 6)

- (3J) Where a management committee is appointed at a meeting of owners convened under this section—
- (a) the convenor shall deliver to the management committee immediately after the conclusion of the meeting all the instruments for the appointment of proxies that have been lodged with him; and
  - (b) the management committee shall keep the instruments for a period of at least 12 months after the conclusion of the meeting. (Added 5 of 2007 s. 6)

(3K) Subject to subsection (3L), where a meeting of owners convened under this section is adjourned, subsections (3A), (3B), (3C), (3D), (3E), (3F), (3G), (3H), (3I) and (3J) shall apply to the adjourned meeting as they apply to the original meeting. (Added 5 of 2007 s. 6)

(3L) Where a meeting of owners convened under this section is adjourned, a valid instrument appointing a proxy made for the purposes of the original meeting shall remain valid for the purposes of the adjourned meeting unless—

- (a) contrary intention is shown on the instrument;
- (b) the instrument is revoked; or
- (c) the instrument is replaced by a new instrument appointing a proxy. (Added 5 of 2007 s. 6)

(4) Any owner, or person referred to in section 3(1)(a) or (b), as the case may be, who wishes to oppose the appointment of a management committee may, by notice given to the Authority at least 7 days before the date of the meeting, object to the order convening the meeting of owners under this section.

(5) If, under subsection (4), the Authority receives-

- (a) notices of objection from the owners of not less than 20% of the shares in aggregate; or (Amended 12 of 1998 s. 2)
- (b) a notice of objection from a person referred to in section 3(1)(a) or (b) endorsed or otherwise supported by the owners of not less than 20% of the shares in aggregate, (Amended 12 of 1998 s. 2; 69 of 2000 s. 4)

any order of the Authority under subsection (1) shall be of no effect and the Authority shall notify the convenor accordingly who shall, so far as practicable, bring the notification to the attention of each owner or other person to whom a notice has been given under subsection (3A). (Amended 5 of 2007 s. 42)

(6) Where any order of the Authority is of no effect by virtue of subsection (5) the Authority may advise the applicant to apply to the tribunal under section 4(1)(a) or the Authority or an authorized officer may apply to the tribunal under section 4(1)(b).

(Added 27 of 1993 s. 6. Amended 5 of 2007 s. 6)

Section:	4	Appointment of management committee after application to tribunal	L.N. 92 of 2007	01/08/2007
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(1) The tribunal may, upon application by—

- (a) the owners of not less than 10% of the shares in aggregate; or (Amended 69 of 2000 s. 5; 5 of 2007 s. 43)
- (b) the Authority or an authorized officer, (Replaced 27 of 1993 s. 7)

order that a meeting of owners shall be convened, by such owner as the tribunal may direct, to appoint a management committee. (Amended 27 of 1993 s. 42)

(2) Upon the making of an order under subsection (1) the tribunal may order that the costs of the application shall be paid by the applicant or by any person opposing the application. (Amended 27 of 1993 s. 42)

(3) If a corporation is established under Part III, the corporation shall refund to the applicant any costs paid by him in accordance with an order made under subsection (2). (Amended 27 of 1993 s. 7)

(4) At a meeting of owners convened under this section, the owners may, by a resolution passed by a majority of the votes of the owners voting either personally or by proxy, appoint a management committee. (Replaced 27 of 1993 s. 7. Amended 5 of 2007 s. 7)

(5) The convenor shall, at least 14 days before the date of the meeting of owners, give notice of the meeting to each owner and the person referred to in section 3(1)(a) or (b) (if any). (Added 5 of 2007 s. 7)

(6) The notice of meeting shall specify—

- (a) the date, time and place of the meeting; and
- (b) the resolutions that are to be proposed at the meeting and are related only to the appointment of a

management committee and the incorporation of the owners. (Added 5 of 2007 s. 7)

- (7) The notice of meeting may be given—
  - (a) in the case of an owner—
    - (i) by delivering it personally to the owner;
    - (ii) by sending it by post to the owner at his last known address; or
    - (iii) by leaving it at the owner's flat or depositing it in the letter box for that flat; or
  - (b) in the case of a person referred to in section 3(1)(a) or (b)—
    - (i) by delivering it personally to the person; or
    - (ii) by sending it by post to the person at his last known address. (Added 5 of 2007 s. 7)
- (8) The convenor shall also, at least 14 days before the date of the meeting of owners, display the notice of meeting in a prominent place in the building. (Added 5 of 2007 s. 7)
- (9) The convenor shall preside at a meeting of owners convened under this section. (Added 5 of 2007 s. 7)
- (10) The quorum at a meeting of owners convened under this section shall be 10% of the owners. (Added 5 of 2007 s. 7)
- (11) At a meeting of owners convened under this section—
  - (a) an owner shall, unless the deed of mutual covenant (if any) otherwise provides, have one vote in respect of each share he owns;
  - (b) an owner may cast a vote personally or by proxy;
  - (c) where 2 or more persons are the co-owners of a share, the vote in respect of the share may be cast—
    - (i) by a proxy jointly appointed by the co-owners;
    - (ii) by a person appointed by the co-owners from amongst themselves; or
    - (iii) if no appointment is made under subparagraph (i) or (ii), either by one of the co-owners personally or by a proxy appointed by one of the co-owners; and
  - (d) where 2 or more persons are the co-owners of a share and more than one of the co-owners seeks to cast a vote in respect of the share, only the vote that is cast, whether personally or by proxy, by the co-owner whose name, in order of priority, stands highest in relation to that share in the register kept at the Land Registry shall be treated as valid. (Added 5 of 2007 s. 7)
- (12) For the purposes of subsection (11)—
  - (a) the instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and—
    - (i) shall be signed by the owner; or
    - (ii) if the owner is a body corporate, shall, notwithstanding anything to the contrary in its constitution, be impressed with the seal or chop of the body corporate and signed by a person authorized by the body corporate in that behalf;
  - (b) the instrument appointing a proxy shall be lodged with the convenor at least 48 hours before the time for the holding of the meeting;
  - (c) the instrument appointing a proxy is valid only if it is made and lodged in accordance with paragraphs (a) and (b);
  - (d) a proxy appointed by an owner to attend and vote on behalf of the owner shall, for the purposes of the meeting, be treated as being the owner present at the meeting; and
  - (e) where an instrument appointing a proxy is lodged with the convenor, the convenor shall—
    - (i) acknowledge receipt of the instrument by leaving a receipt at the flat of the owner who made the instrument, or depositing the receipt in the letter box for that flat, before the time for the holding of the meeting;
    - (ii) determine the validity of the instrument in accordance with paragraph (c); and
    - (iii) display information of the owner's flat in a prominent place in the place of the meeting before the time for the holding of the meeting, and cause the information to remain so displayed until the conclusion of the meeting. (Added 5 of 2007 s. 7)
- (13) Subject to subsection (14), the convenor shall keep all the instruments for the appointment of proxies that have been lodged with him for a period of at least 12 months after the conclusion of the meeting. (Added 5 of 2007 s. 7)
- (14) Where a management committee is appointed at a meeting of owners convened under this section—
  - (a) the convenor shall deliver to the management committee immediately after the conclusion of the meeting all the instruments for the appointment of proxies that have been lodged with him; and

(b) the management committee shall keep the instruments for a period of at least 12 months after the conclusion of the meeting. (Added 5 of 2007 s. 7)

(15) Subject to subsection (16), where a meeting of owners convened under this section is adjourned, subsections (5), (6), (7), (8), (9), (10), (11), (12), (13) and (14) shall apply to the adjourned meeting as they apply to the original meeting. (Added 5 of 2007 s. 7)

(16) Where a meeting of owners convened under this section is adjourned, a valid instrument appointing a proxy made for the purposes of the original meeting shall remain valid for the purposes of the adjourned meeting unless—

- (a) contrary intention is shown on the instrument;
- (b) the instrument is revoked; or
- (c) the instrument is replaced by a new instrument appointing a proxy. (Added 5 of 2007 s. 7)

Section:	5	(Repealed 5 of 2007 s. 8)	L.N. 92 of 2007	01/08/2007
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Section:	5A	(Repealed 5 of 2007 s. 9)	L.N. 92 of 2007	01/08/2007
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Section:	5B	Enumeration of owners	L.N. 242 of 2000	01/08/2000
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Schedule 11 shall have effect with respect to the enumeration of the percentage of owners referred to in the provisions of the Ordinance specified in that Schedule in the case where, in those provisions as so specified, a reference to a percentage of the owners is-

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

(Added 69 of 2000 s. 7)

Section:	6	Composition and procedure of management committee	L.N. 92 of 2007	01/08/2007
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Schedule 2 shall have effect with respect to the composition and procedure of a management committee.

(Amended 27 of 1993 s. 42; 5 of 2007 s. 44)

Section:	7	Application by management committee for registration of owners as a corporation	L.N. 92 of 2007	01/08/2007
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### PART III

#### INCORPORATION

(1) A management committee appointed under section 3, 3A, 4 or 40C shall within 28 days of such appointment apply to the Land Registrar for the registration of the owners as a corporation under this Ordinance. (Amended 8 of 1993 s. 3)

(2) An application under subsection (1) shall be in such form as the Land Registrar may specify and shall include the following particulars- (Amended 8 of 1993 s. 3)

- (a) the name of the proposed corporation, which shall be in the form "The Incorporated Owners of .....";  
(Description of building)
- (b) the name (if any) and address of the building;
- (c) the address of the proposed registered office of the corporation; and
- (d) the name and address of the chairman and secretary of the management committee.

(3) An application under subsection (1) shall be accompanied by the following documents-

- (a) a copy of the deed of mutual covenant (if any) in respect of the building;
- (aa) where an application has been made to the Authority under section 3A(1), a copy of the order of the



- Authority; (Added 27 of 1993 s. 9)
- (b) where an application has been made to the tribunal under section 4(1) or 40C, a copy of the order of the tribunal;
  - (c) a copy of the resolution or other document evidencing the appointment of the management committee under section 3, 3A, 4 or 40C certified as correct by the chairman or secretary of the management committee or by the chairman of the meeting at which the resolution was passed; (Amended 5 of 2007 s. 10)
  - (d) a declaration by the chairman or secretary of the management committee, in such form as the Land Registrar may specify, that the provisions of section 3, 3A, 4 or 40C and relevant provisions in section 5B have been complied with; and (Amended 8 of 1993 s. 3; 5 of 2007 s. 10)
  - (e) a declaration by each member of the management committee appointed under paragraph 2(1)(b) of Schedule 2, in such form as the Land Registrar may specify, that he does not fall within the description of paragraph 4(1)(a) or (b) of that Schedule. (Added 5 of 2007 s. 10)
- (Amended 27 of 1993 ss. 9 & 42; 69 of 2000 s. 8)

Section:	8	Incorporation	L.N. 92 of 2007	01/08/2007
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(1) The Land Registrar shall, if satisfied that the provisions of section 3, 3A, 4 or 40C and section 7(2) and (3) have been complied with, issue a certificate of registration in such form as may be specified by the Authority from time to time. (Amended 8 of 1993 s. 3; 27 of 1993 ss. 10 & 42; 69 of 2000 s. 9)

(1A) The Land Registrar shall not issue a certificate of registration to more than one corporation for a building in respect of which a deed of mutual covenant is in force. (Added 5 of 2007 s. 11)

(2) With effect from the date of issue of the certificate of registration under subsection (1)-

- (a) the owners for the time being shall be a body corporate with perpetual succession and shall in the name of the corporation specified in the certificate of registration be capable of suing and being sued and, subject to this Ordinance, of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer; (Amended 52 of 1975 s. 2)
- (aa) the corporation shall have, and be deemed always to have had, the power to hold an undivided share in the building, together with the right to the exclusive possession of any part of the building other than the common parts thereof; and (Added 52 of 1975 s. 2)
- (b) the management committee appointed under section 3, 3A, 4 or 40C shall be deemed to be the first management committee of the corporation. (Amended 27 of 1993 s. 10; 69 of 2000 s. 9)

(3) A corporation shall have a common seal, the affixing of which shall be authenticated by the signature of the chairman and secretary of the management committee.

(4) A corporation shall have a registered office in Hong Kong. (Amended 27 of 1993 s. 10)

(5) Schedule 3 shall have effect with respect to the meetings and procedure of a corporation. (Amended 5 of 2007 s. 46)

Section:	9	Undesirable names		30/06/1997
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No corporation shall be registered by a name which, in the opinion of the Land Registrar, is undesirable.

(Amended 8 of 1993 s. 3)

[cf. 1948 c. 38 s. 17 U.K.]

Section:	10	Change of name	L.N. 92 of 2007	01/08/2007
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(1) At a general meeting of a corporation convened and conducted in accordance with Schedule 3 for the purpose, the corporation may- (Amended 5 of 2007 s. 47)

- (a) in the case of a direction by the Land Registrar under subsection (2), by a resolution passed by a majority; or
- (b) in any other case, by a resolution passed by not less than 75%, (Amended 5 of 2007 s. 47)

of the votes of the owners, change the name of the corporation. (Replaced 27 of 1993 s. 11)

(2) If at any time a corporation is registered by a name which, in the opinion of the Land Registrar, is so similar to the name by which another corporation is registered as to be likely to mislead, the Land Registrar may direct that the first mentioned corporation shall change its name within a period of six weeks from the date of the direction or

such longer period as the Land Registrar may allow. (Amended 8 of 1993 s. 3)

(3) A corporation which makes default in complying with a direction under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine of \$50 for each day during which the default continues. (Amended 27 of 1993 s. 42)

(4) When a corporation changes its name under this section, the Land Registrar shall enter the new name on the register maintained by him under section 12 in place of the former name, and shall issue an amended certificate of registration. (Amended 8 of 1993 s. 3)

(5) A change of name of a corporation under this section shall not affect any rights or obligations of the corporation or render defective any legal proceedings by or against the corporation, and any legal proceedings which might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

[cf. 1948 c. 38 s. 18 U.K.]

Section:	11	Display of copy certificate of registration, etc.		30/06/1997
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(1) The following documents, namely-

- (a) a copy of the certificate of registration issued under section 8(1), or a copy of the amended certificate of registration issued under section 10(4), as the case may be;
- (b) in the case where the building is the registered office of the corporation, a notice of registered office in the form described in subsection (1B);
- (c) in the case where the building is not the registered office of the corporation, a copy of that notice endorsed with the address of the registered office,

shall be displayed by the management committee in a prominent place in the building. (Replaced 27 of 1993 s. 12)

(1A) Where the building is not the registered office of the corporation, a notice of registered office in the form described in subsection (1B) shall be displayed or caused to be displayed by the management committee in a prominent place at the registered office of the corporation. (Added 27 of 1993 s. 12)

(1B) The notice of registered office, or a copy thereof, shall be in the form "Registered Office of the Incorporated Owners of .....". (Added 27 of 1993 s. 12)

(description of building)

(2) A corporation which exhibits or uses any name of or for the corporation in Chinese characters, whether or not such name is a transliteration or translation of its name in its certificate of registration, or amended certificate of registration referred to in subsection (1)(a), as the case may be, shall append to such name so used in Chinese characters the Chinese characters "業主立案法團". (Amended 27 of 1993 s. 12)

(3) In the event of a contravention of this section, every member of the management committee shall be guilty of an offence and shall be liable on conviction to a fine of \$50 unless he proves that the offence was committed without his consent or connivance and that he exercised all such due diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances. (Amended 27 of 1993 s. 42)

Section:	12	Land Registrar to maintain register of corporations	L.N. 92 of 2007	01/08/2007
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(1) The Land Registrar shall maintain a register of corporations, and permit any person to inspect the register at any reasonable time to ascertain, in connection with the management of buildings, the particulars of a corporation entered in the register under subsection (2). (Amended 5 of 2007 s. 12)

(2) The Land Registrar shall enter in the register the following particulars of each corporation-

- (a) the name of the corporation;
- (b) the name (if any) and address of the building;
- (c) the address of the registered office of the corporation;
- (d) the name and address of-
  - (i) the chairman of the management committee;
  - (ii) the vice-chairman (if any) of the management committee;
  - (iii) the secretary of the management committee;
  - (iv) the treasurer of the management committee; and
  - (v) any other person who is a member of the management committee but does not fall within the

description of subparagraph (i), (ii), (iii) or (iv); (Replaced 5 of 2007 s. 12)

(e) the name and address of any administrator;

(f) the particulars of any winding-up petition or winding-up order, as the case may be, required to be entered by him in the register under section 34A(2)(a). (Added 27 of 1993 s. 13)

(3) The secretary of the management committee shall, within 28 days of the date of any change in the particulars registered under subsection (2), other than the particulars referred to in paragraph (e) or (f) of that subsection, give notice thereof to the Land Registrar in such form as the Land Registrar may specify. (Amended 27 of 1993 ss. 13 & 42)

(4) In the event of a contravention of subsection (3), the secretary of the management committee shall be guilty of an offence and shall be liable on conviction to a fine of \$100 for each day during which the contravention continues. (Amended 27 of 1993 s. 42)

(5) Upon payment of such fee as may be prescribed, any person may-

(a) inspect the register and any document required to be submitted to the Land Registrar under this Ordinance; and

(b) require a copy or extract of any such register or document to be made and certified under the hand of the Land Registrar.

(Amended 8 of 1993 s. 3)

Section:	13	Conclusiveness of certificate of registration		30/06/1997
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A certificate of registration issued under section 8(1), or an amended certificate of registration issued under section 10(4), as the case may be, in respect of a corporation shall be conclusive evidence that such corporation is incorporated under this Ordinance.

(Amended 8 of 1993 s. 3; 27 of 1993 s. 14)

Section:	14	Powers of corporation generally	L.N. 92 of 2007	01/08/2007
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## PART IV

### PROVISIONS RELATING TO CORPORATIONS

(1) Subject to this Ordinance, at a meeting of a corporation any resolution may be passed with respect to the control, management and administration of the common parts or the renovation, improvement or decoration of those parts and any such resolution shall be binding on the management committee and all the owners. (Amended 12 of 1998 s. 4)

(2) Without prejudice to the generality of subsection (1), a corporation may by resolution at a meeting remove from office and replace any member (other than a member who is the tenants' representative) of the management committee. (Amended 27 of 1993 s. 15)

(3) A resolution for the removal of so many members of the management committee as would reduce the number of members below the number required under paragraph 1 of Schedule 2 shall not have effect unless there is appointed, at the meeting at which such resolution is passed, a sufficient number of further members as will comply with such requirements. (Amended 5 of 2007 s. 48)

(4) Paragraph 6 of Schedule 2 shall, with necessary modifications, apply for the purposes of appointing an owner to replace a member of the management committee by the corporation under subsection (2), as it applies for the purposes of appointing an owner to fill a vacancy in a management committee by the corporation. (Added 5 of 2007 s. 13)

Section:	15	Tenants' representative	L.N. 92 of 2007	01/08/2007
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(1) The members of an approved association may, by a resolution passed by a majority of the votes of the members voting either personally or by proxy, appoint or remove from office an occupier as the tenants' representative. (Amended 5 of 2007 s. 49)

(2) In this section "approved association" (認可組織) means an association-

(a) formed to represent the interests of the occupiers; and

- (b) which has been approved for the purposes of this section by the Authority or an authorized officer.  
(Replaced 27 of 1993 s. 16)

Section:	16	Rights etc. of owners to be exercised etc. by corporation		30/06/1997
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When the owners of a building have been incorporated under section 8, the rights, powers, privileges and duties of the owners in relation to the common parts of the building shall be exercised and performed by, and the liabilities of the owners in relation to the common parts of the building shall, subject to the provisions of this Ordinance, be enforceable against, the corporation to the exclusion of the owners, and accordingly-

- (a) any notice, order or other document which relates to any of the common parts of the building may be served upon the corporation at its registered office; and
- (b) any proceedings in the tribunal in respect of any of the common parts of the building may be brought and pursued by or against the corporation.

(Amended 27 of 1993 s. 42)

Section:	17	Enforcement of judgments etc. against a corporation		30/06/1997
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(1) If a judgment is given or an order is made against a corporation, execution to enforce the judgment or order may issue-

- (a) against any property of the corporation; or
- (b) with leave of the tribunal, against any owner.

(2) An application for leave under subsection (1)(b) shall be made by summons served personally upon the owner against whom execution is sought.

(Amended 27 of 1993 s. 42)

Section:	18	Duties and powers of corporation	L.N. 92 of 2007	01/08/2007
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(1) The corporation shall-

- (a) maintain the common parts and the property of the corporation in a state of good and serviceable repair and clean condition;
- (b) carry out such work as may be ordered or required in respect of the common parts by any public officer or public body in exercise of the powers conferred by any Ordinance;
- (c) do all things reasonably necessary for the enforcement of the obligations contained in the deed of mutual covenant (if any) for the control, management and administration of the building.

(2) A corporation may, in its discretion-

- (a) engage and remunerate staff for any purpose relating to the powers or duties of the corporation under this Ordinance or the deed of mutual covenant (if any); (Amended 27 of 1993 s. 17)
- (aa) subject to such terms and conditions as to attendance at meetings of a management committee and its sub-committees as the management committee may determine, pay the chairman, vice-chairman (if any), secretary and treasurer of the management committee appointed under section 14(2) or paragraph 2(1), 5(2), 6 or 6A of Schedule 2 such allowances as may be approved by the corporation by resolution passed at a general meeting, in accordance with, but in aggregate not exceeding, the maximum allowances specified in Schedule 4; (Added 27 of 1993 s. 17. Amended 5 of 2007 s. 50)
- (b) retain and remunerate accountants for the purposes of auditing the corporation's books of accounts and preparing the annual income and expenditure accounts and balance sheets;
- (c) retain and remunerate a manager or other professional trade or business firm or person to carry out on behalf of the corporation any of the duties or powers of the corporation under this Ordinance or the deed of mutual covenant (if any); (Amended 27 of 1993 s. 17)
- (d) insure and keep insured the building or any part thereof to the reinstatement value thereof against fire and other risks;
- (e) purchase, hire or otherwise acquire movable property for use by the owners in connection with their enjoyment of the common parts or to satisfy any requirement of a public officer or public body for the purpose of any Ordinance;
- (f) establish and maintain lawns, gardens and playgrounds on the common parts;
- (fa) carry out any renovation, improvement or decoration work, as the case may be, to the common parts;

(Added 12 of 1998 s. 5)

- (g) act on behalf of the owners in respect of any other matter in which the owners have a common interest.  
(Amended 27 of 1993 s. 17)

(2A) Without prejudice to the generality of subsections (1) and (2), the corporation in the performance of its duties and the exercise of its powers under this section shall have regard to and be guided by Codes of Practice issued from time to time under section 44(1). (Added 69 of 2000 s. 10)

(3) For the avoidance of doubt, it is declared that a member of a management committee shall not be entitled to receive an allowance under subsection (2)(aa) in respect of more than one office held by him at the same time. (Added 27 of 1993 s. 17)

(4) No provision in a deed of mutual covenant or other agreement shall operate to prevent a member of a management committee who is entitled to receive an allowance under subsection (2)(aa) from receiving that allowance and any such provision, including a provision purporting to substitute some lesser allowance (howsoever named) for that allowance, shall be void and of no effect. (Added 27 of 1993 s. 17)

(Amended 5 of 2007 s. 14)

Section:	19	Corporation may sell or register charges against flat in certain circumstances		30/06/1997
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(1) If a deed of mutual covenant provides that if an owner fails to pay any sum which is payable under the deed of mutual covenant, a person may sell that owner's interest in the land or register a charge against such interest in the Land Registry, then, notwithstanding the provisions of the deed of mutual covenant, the corporation may, to the exclusion of such person, exercise such power of sale or register such charge in the same manner and subject to the same conditions as if it were the person referred to in the deed of mutual covenant. (Amended 8 of 1993 s. 2; 27 of 1993 s. 18)

(2) The reference in subsection (1) to "fails to pay any sum which is payable under the deed of mutual covenant" shall be construed to extend to the failure by an owner to pay the costs incurred by the management committee in connection with the exercise by it of the powers conferred by section 40(1)(a)(ii) or (b). (Added 27 of 1993 s. 18)

Section:	20	Establishment of funds	L.N. 92 of 2007	01/08/2007
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(1) A corporation shall establish and maintain a general fund-

- (a) to defray the cost of the exercise of its powers and the performance of its duties under the deed of mutual covenant (if any) and this Ordinance; and
- (b) to pay Government rent, premiums, taxes or other outgoings (including any outgoings in relation to any maintenance or repair work) which are payable in respect of the building as a whole. (Amended 27 of 1993 s. 19; 29 of 1998 s. 105)

(2) A corporation may establish and maintain a contingency fund-

- (a) to provide for any expenditure of an unexpected or urgent nature; and
- (b) to meet any payments of the kind specified in sub-section (1) if the fund established thereby is insufficient to meet them.

(3) A corporation shall open and maintain an interest-bearing account and shall use that account exclusively in respect of the management of the building. (Added 27 of 1993 s. 19. Amended 5 of 2007 s. 15)

(4) Subject to subsections (5) and (6), a corporation shall without delay pay all money received by the corporation in respect of the management of the building into the account opened and maintained under subsection (3). (Added 27 of 1993 s. 19. Amended 5 of 2007 s. 15)

(5) Subject to subsection (6), the treasurer of a management committee may, out of money received by the corporation in respect of the management of the building, retain or pay into a current account a reasonable amount to cover expenditure of a minor nature, but that amount shall not exceed such figure as is determined from time to time by a resolution of the management committee. (Added 27 of 1993 s. 19)

(6) The retention of a reasonable amount of money under subsection (5) or the payment of that amount into a current account in accordance with that subsection and any other arrangement for dealing with money received by a corporation shall be subject to such conditions as may be approved by a resolution of the management committee. (Added 27 of 1993 s. 19)

(7) Any reference in this section to an account is a reference to an account opened-

- (a) with a bank within the meaning of section 2 of the Banking Ordinance (Cap 155); and
- (b) in the name of the corporation. (Replaced 49 of 1995 s. 53)

Section:	20A	Supplies, goods and services	L.N. 92 of 2007	01/08/2007
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(1) The procurement of all supplies, goods or services required by a corporation in the exercise of its powers and the performance of its duties under the deed of mutual covenant (if any) or this Ordinance shall comply with such standards and guidelines as may be specified in a Code of Practice relating to such procurement.

(2) Subject to subsection (2A), any supplies, goods or services referred to in subsection (1) the value of which exceeds or is likely to exceed— (Amended 5 of 2007 s. 16)

- (a) the sum of \$200000 or such other sum in substitution therefor as the Authority may specify by notice in the Gazette; or
- (b) a sum which is equivalent to 20% of the annual budget of the corporation or such other percentage in substitution therefor as the Authority may specify by notice in the Gazette,

whichever is the lesser, shall be procured by invitation to tender. (Amended 5 of 2007 s. 16)

(2A) Subsection (2) does not apply to any supplies, goods or services which but for this subsection would be required to be procured by a corporation by invitation to tender (referred to in this subsection as “relevant supplies, goods or services” ) if—

- (a) the relevant supplies, goods or services are of the same type as any supplies, goods or services which are for the time being supplied to the corporation by a supplier; and
- (b) the corporation decides by a resolution of the owners passed at a general meeting of the corporation that the relevant supplies, goods or services shall be procured from that supplier on such terms and conditions as specified in the resolution, instead of by invitation to tender. (Added 5 of 2007 s. 16)

(2B) Where any supplies, goods or services are required under subsection (2)(b) to be procured by invitation to tender, whether a tender submitted for the purpose is accepted or not shall be decided by a resolution of the owners passed at a general meeting of the corporation. (Added 5 of 2007 s. 16)

(3) (Repealed 5 of 2007 s. 16)

(4) All tender documents, copies of contracts, accounts and invoices and any other documents in the possession of a corporation and relating to the procurement of supplies, goods and services shall be kept by the corporation for such period, being not less than 6 years, as the corporation may determine.

(5) A contract for the procurement of any supplies, goods or services shall not be void by reason only that it does not comply with subsection (1). (Added 5 of 2007 s. 16)

(6) Where any supplies, goods or services are required under subsection (2) to be procured by invitation to tender, a contract for the procurement of the supplies, goods or services which does not comply with subsection (2) or (2B)—

- (a) subject to any resolution passed by the corporation under paragraph (b) or any order made by the court under subsection (7), shall not be void by reason only that it does not comply with subsection (2) or (2B);
- (b) subject to any order made by the court under subsection (7), may be avoided by the corporation by a resolution of the owners passed at a general meeting of the corporation but only for the reason that it does not comply with subsection (2) or (2B). (Added 5 of 2007 s. 16)

(7) In any legal proceedings in relation to a contract for the procurement of any supplies, goods or services to which subsection (2) or (2B) applies, the court may make such orders (including whether the contract is void or voidable) and give such directions in respect of the rights and obligations of the contractual parties as the court thinks fit having regard to all the circumstances of the case, including (but not limited to) the following factors—

- (a) whether the supplies, goods or services have been procured by invitation to tender;
- (b) whether a general meeting of the corporation has been convened to consider the procurement of the supplies, goods or services;
- (c) whether the Code of Practice referred to in subsection (1) has been complied with;
- (d) whether the contract has been split, for the sole purpose of avoiding the compliance of the requirements in subsection (2) or (2B), from a contract which should have been made for the procurement of supplies, goods or services of greater value;
- (e) whether the supplies, goods or services were urgently required;
- (f) the progress of any activities or works in relation to the supplies, goods or services;

- (g) whether the owners have benefited from the contract;
- (h) whether the owners have incurred any financial loss due to the contract and the extent thereof;
- (i) whether the supplier of the supplies, goods or services under the contract has acted in good faith;
- (j) whether the supplier of the supplies, goods or services under the contract has benefited from the contract; and
- (k) whether the supplier of the supplies, goods or services under the contract has incurred any financial loss due to the contract and the extent thereof. (Added 5 of 2007 s. 16)

(8) For the purposes of subsection (7), where the court makes an order that the contract is voidable at the instance of the corporation, it shall also make an order that a general meeting of the corporation be convened and held in such manner as the court thinks fit, so as to decide whether the contract is to be avoided. (Added 5 of 2007 s. 16)

(9) For the avoidance of doubt, subject to section 29A, any person who enters into a contract for the procurement of any supplies, goods or services otherwise than in compliance with subsection (2) or, if applicable, subsection (2B) may be personally liable for any claims arising from the contract. (Added 5 of 2007 s. 16)  
(Added 27 of 1993 s. 20)

Section:	21	Contributions to funds	L.N. 92 of 2007	01/08/2007
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(1) Subject to subsection (4), a management committee shall determine the amount to be contributed by the owners to the funds established and maintained under section 20 during such period-

- (a) in the case of the first such period after the date of registration of the corporation, not exceeding 15 months; and
- (b) in any other case, not exceeding 12 months,

as the management committee may determine. (Replaced 27 of 1993 s. 21)

(1A) Subject to subsection (3), any amount ("subsequent amount" (其後的款額) ) determined by a management committee under subsection (1) after the first such amount (so determined under that subsection) shall not exceed a sum equivalent to 150% of the preceding amount (so determined under that subsection) unless that subsequent amount is approved by the corporation by a resolution passed at a general meeting. (Added 27 of 1993 s. 21)

(2) Subject to section 14(1) and to subsection (3), a management committee shall not increase the amount determined in accordance with subsection (1). (Amended 27 of 1993 s. 42)

(3) A management committee may increase the amount required to be contributed by the owners to the extent to which the funds established and maintained under section 20 are insufficient to meet any payment due by the corporation in respect of the cost of complying with-

- (a) an order of the tribunal; or (Amended 27 of 1993 s. 42)
- (b) any notice, order or other document served upon the corporation in relation to the common parts by a public officer or public body under any Ordinance.

(4) Schedule 5 shall have effect with respect to the amount to be determined under subsection (1), the preparation of budgets by the management committee for such determinations and the supply of copies of any documents in respect of those budgets. (Added 27 of 1993 s. 21. Amended 5 of 2007 s. 51)

(5) In the event of any inconsistency between this section (which shall be construed to include Schedule 5) and the terms of a deed of mutual covenant or any other agreement, this section shall prevail. (Added 27 of 1993 s. 21. Amended 5 of 2007 s. 51)

Section:	22	Recovery of contributions from owners		30/06/1997
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(1) The amount to be contributed by an owner towards the amount determined under section 21 shall be-

- (a) fixed by the management committee in accordance with the deed of mutual covenant (if any);
- (b) payable at such times and in such manner as the management committee may determine. (Amended 27 of 1993 s. 22)

(2) If there is no deed of mutual covenant, or if the deed of mutual covenant does not provide for the fixing of contributions, the amount to be contributed by an owner towards the amount determined under section 21 shall be fixed by the management committee in accordance with the respective shares of the owners.

(3) The amount payable by an owner under this section shall be a debt due from him to the corporation at the time when it is payable.

(4) A certificate in writing signed by the chairman of the management committee stating the amount to be

contributed under this section by an owner and when it is payable shall be admissible in evidence in any proceedings as prima facie evidence of the facts stated therein without further proof.

Section:	23	Liability of occupier to pay contributions to funds		30/06/1997
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(1) If any amount payable under section 22 by an owner who is not occupying a flat in the building concerned remains unpaid for a period of one month after it has become due to the corporation, the corporation may, without prejudice to any right of action against the owner, by notice in writing addressed to the occupier of the flat and served upon him either personally or by registered post, demand such amount from the occupier, who shall, subject to subsection (2), thereupon be liable to pay the same to the corporation.

(2) Notwithstanding subsection (1), the liability of the occupier of a flat to pay an amount demanded from him under subsection (1) shall extend only to such amount of rent or other charge (exclusive of rates) as is due at the time of service on him of the demand, or falls due subsequently from him, in respect of his occupation of the flat.

(3) In any proceedings by a corporation to recover an amount payable under subsection (1), it shall be presumed, until the contrary is proved, that the amount claimed does not exceed the amount of rent or other charge (exclusive of rates) due from the occupier at the time of commencement of such proceedings.

(4) If an occupier of a flat has paid an amount in accordance with this section-

- (a) that amount may, subject to the terms on which he occupies the flat, be deducted by him from the rent or other charge due in respect of his occupation of the flat; and
- (b) any person, not being the owner, to whom such rent or other charge has been paid subject to such deduction, may in like manner as the occupier deduct such amount from the rent or other charge due from him in respect of the flat.

(5) Any deduction by an occupier or other person under subsection (4) shall operate as a discharge, to the extent of the amount so deducted, of his liability for the rent or other charge.

Section:	24	Distress for contributions		30/06/1997
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(1) Subject to the provisions of this section, Part III of the Landlord and Tenant (Consolidation) Ordinance (Cap 7) shall apply to an amount payable under section 22 or 23 as if the amount were rent payable to the corporation as landlord of the owner's flat. (Rectified by the Attorney General under the Revised Edition of the Laws Ordinance 1965) (Amended L.N. 67 of 1985)

(2) A corporation may name as the defendant in any distress under this section "the person in occupation of" (佔用人) a flat, without specifying in the application or in the warrant the name of any person in occupation of the flat.

Section:	25	Registered mortgagee may pay contribution and recover same from the owner		30/06/1997
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If an owner fails to pay any amount payable under section 22 within one month of the same becoming due and a registered mortgagee of the flat in respect of which the owner is in default has paid such amount on the owner's behalf, such payment shall be recoverable by the registered mortgagee from the owner as if the amount of such payment formed part of the principal sum due under the registered mortgage of the flat.

Section:	26	Management committee to certify matters relating to payment of contributions		30/06/1997
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A management committee shall, on the application of an owner, a registered mortgagee, an occupier, such other person as is referred to in section 23(4)(b) or a person authorized in writing in that behalf by such owner, registered mortgagee, occupier or other person, certify- (Amended 27 of 1993 s. 42)

- (a) the amount payable in accordance with section 22 by the owner;
- (b) the extent to which such sum has been paid; and
- (c) the name of the person by whom and the person on whose behalf such payment was made.



Section:	26A	Management committee to display information about legal proceedings	L.N. 92 of 2007	01/08/2007
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A management committee shall notify the owners of any legal proceedings to which the corporation is a party—

- (a) in the case of proceedings against the corporation, by displaying a notice containing the particulars of the proceedings in a prominent place in the building within 7 days of receiving any court documents commencing the proceedings, and causing the notice to remain so displayed for at least 7 consecutive days;
- (b) in the case of proceedings by the corporation, by displaying a notice containing the particulars of the proceedings in a prominent place in the building within 7 days of issuing any court documents commencing the proceedings, and causing the notice to remain so displayed for at least 7 consecutive days.

(Added 5 of 2007 s. 17)

Section:	27	Accounts of corporation	L.N. 92 of 2007	01/08/2007
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(1) Subject to subsection (3), a management committee shall maintain proper books or records of account and other financial records and shall prepare, not later than 15 months after the date of the registration of the corporation and thereafter every 12 months, financial statements which— (Amended 5 of 2007 s. 18)

- (a) shall be signed by—
  - (i) the chairman of the management committee; and
  - (ii) the secretary or the treasurer of the management committee;
- (b) if subsection (1A) is applicable, shall be audited under that subsection; and
- (c) together with the accountant's report made under subsection (1A), if any, shall be laid before the corporation at the annual general meeting of the corporation convened in accordance with paragraph 1(1) of Schedule 3. (Replaced 27 of 1993 s. 23. Amended 5 of 2007 s. 18)

(1AA) The financial statements referred to in subsection (1) shall include—

- (a) an income and expenditure account which gives a true and fair view of the financial transactions of the corporation for the period to which it relates; and
- (b) a balance sheet which gives a true and fair view of the financial position of the corporation as at the date to which the income and expenditure account is made up. (Added 5 of 2007 s. 18)

(1A) Except in the case of a corporation incorporated in respect of a building which contains not more than 50 flats, the financial statements referred to in subsection (1) shall be audited by an accountant retained by the corporation as may be approved by the corporation by a resolution passed at a general meeting and that accountant shall report as to whether such financial statements are, in his opinion, properly prepared so as to give a true and fair view of the financial transactions of the corporation for the period to which the income and expenditure account relates and the financial position of the corporation as at the date to which the income and expenditure account is made up, subject to such qualification, if any, as he may think fit. (Replaced 69 of 2000 s. 11. Amended 5 of 2007 s. 18)

(1B) In subsection (1A), "flats" (單位) does not mean any garage, carpark or carport. (Added 69 of 2000 s. 11)

(2) The management committee shall permit the Authority, an authorized officer, the tenants' representative, an owner, a registered mortgagee or any person authorized in writing in that behalf by an owner or registered mortgagee to inspect the books of account at any reasonable time. (Amended 27 of 1993 s. 23)

(3) In the event of a contravention of subsection (1), every member of the management committee shall be guilty of an offence and shall be liable on conviction to a fine at level 5 unless he proves— (Amended 27 of 1993 s. 42; 69 of 2000 s. 11)

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

(4) Schedule 6 shall have effect with respect to the maintenance of proper books or records of account and other records (including the keeping of such accounts and records), the inspection of any documents referred to in such accounts and records, the preparation of summaries of income and expenditure and the supply of copies of any documents in respect of those accounts and summaries. (Added 27 of 1993 s. 23. Amended 5 of 2007 ss. 18 & 52)

(5) In the event of any inconsistency between this section (which shall be construed to include Schedule 6) and

the terms of a deed of mutual covenant or any other agreement, this section shall prevail. (Added 27 of 1993 s. 23. Amended 5 of 2007 s. 52)

Section:	28	Insurance policy to be made available by management committee for inspection		30/06/1997
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(1) If a corporation has effected any policy of insurance in respect of the building or the common parts the management committee shall permit the Authority, an authorized officer, the tenants' representative, an owner, a registered mortgagee or any person duly authorized in writing in that behalf by an owner or registered mortgagee, to inspect the policy of insurance and the receipt for the last premium in respect thereof at any reasonable time. (Amended 27 of 1993 s. 24)

(2) If any person (other than the Authority or an authorized officer) referred to in subsection (1) requests the corporation to supply him with copies of the policy of insurance and the receipt for the last premium in respect of that policy the treasurer shall, on the payment of such reasonable copying charge as the management committee may determine, supply such copies to that person. (Added 27 of 1993 s. 24)

(3) The treasurer shall, if requested by the Authority or an authorized officer and without raising any charge, supply the copies referred to in subsection (2) to the Authority or that officer. (Added 27 of 1993 s. 24)

Section:	29	Management committee to perform duties and exercise powers of corporation		30/06/1997
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Subject to this Ordinance, the powers and duties conferred or imposed by this Ordinance on a corporation shall be exercised and performed on behalf of the corporation by the management committee.

Section:	29A	Protection of members of management committee	L.N. 92 of 2007	01/08/2007
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(1) No member of a management committee, acting in good faith and in a reasonable manner, shall be personally liable for any act done or default made by or on behalf of the corporation—

- (a) in the exercise or purported exercise of the powers conferred by this Ordinance on the corporation; or
- (b) in the performance or purported performance of the duties imposed by this Ordinance on the corporation.

(2) The protection conferred by subsection (1) on a member of a management committee shall not in any way affect the liability of the corporation for that act or default.

(Added 5 of 2007 s. 19)

Section:	30	Dissolution of management committee and appointment of administrator	L.N. 92 of 2007	01/08/2007
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## PART V

### DISSOLUTION OF MANAGEMENT COMMITTEE AND APPOINTMENT OF ADMINISTRATOR

(1) Subject to this section, the owners present at a meeting of the corporation convened under paragraph 1 of Schedule 3 may appoint an administrator and thereafter resolve that the management committee be dissolved. (Amended 5 of 2007 s. 54)

(2) A resolution under subsection (1) shall have no effect until a copy thereof, certified as correct by the chairman of the meeting at which the resolution was passed, is lodged with the Land Registrar within 14 days after the date of the meeting. (Amended 27 of 1993 s. 42)

(3) An administrator shall hold office from the date upon which a certified copy of the resolution referred to in subsection (1) is lodged with the Land Registrar until-

- (a) the owners present at a meeting of the corporation convened under paragraph 1 of Schedule 3 appoint- (Amended 5 of 2007 s. 54)
  - (i) another administrator; or

- (ii) a new management committee; or
- (b) the tribunal appoints an administrator under section 31. (Amended 27 of 1993 s. 42)  
(Amended 8 of 1993 s. 3)

Section:	31	Appointment of administrator by the tribunal		30/06/1997
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- (1) The tribunal may, upon application made to it by-
  - (a) an owner;
  - (b) a registered mortgagee (if any);
  - (c) an administrator; or
  - (d) the Authority or an authorized officer, (Replaced 27 of 1993 s. 25)

dissolve the management committee and appoint an administrator, or remove and replace an administrator, as the case may be. (Amended 27 of 1993 s. 42)

(2) The tribunal may direct that an administrator appointed under subsection (1) shall hold office for an indefinite period or for a fixed period on such terms and conditions as to remuneration or otherwise as it thinks fit, and the remuneration and expenses of the administrator shall be deemed to be part of the expenses of management of the building under this Ordinance.

(Amended 27 of 1993 s. 42)

Section:	32	Powers and duties of an administrator	L.N. 92 of 2007	01/08/2007
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(1) An administrator shall have all the powers and duties of a management committee and of the chairman, secretary and treasurer thereof. (Amended 27 of 1993 s. 26)

(2) An administrator shall, within 7 days of the date of his appointment or the termination of his appointment, give notice thereof to the Land Registrar in such form as the Land Registrar may specify. (Amended 8 of 1993 s. 3; 27 of 1993 s. 42; 5 of 2007 s. 55)

(3) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine of \$100 for each day during which the contravention continues. (Amended 27 of 1993 s. 42)

Section:	33	Winding up of corporations		30/06/1997
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## PART VI

### WINDING UP OF CORPORATIONS

(1) A corporation may be wound up under the provisions of Part X of the Companies Ordinance (Cap 32) as if it were an unregistered company within the meaning of that Ordinance and the provisions of that Ordinance relating to the winding up of an unregistered company shall, in so far as they are applicable, apply to the winding up of a corporation.

- (2) In applying the provisions of the Companies Ordinance (Cap 32) under subsection (1)-
  - (a) a reference to a director of a company shall be deemed to be a reference to a member of a management committee ; and
  - (b) a reference to a member of a company shall be deemed to be a reference to an owner.

Section:	34	Liability of owners on winding up		30/06/1997
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In the winding up of a corporation under section 33, the owners shall be liable, both jointly and severally, to contribute, according to their respective shares, to the assets of the corporation to an amount sufficient to discharge its debts and liabilities.

(Amended 27 of 1993 s. 27)

Section:	34A	Winding-up petitions and orders to be noted in register and records		30/06/1997
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(1) Where-

(a) a winding-up petition in respect of a corporation is presented to the tribunal by a petitioner; or

(b) a winding-up order in respect of a corporation is made by the tribunal,

the petitioner shall, as soon as is reasonably practicable, deliver a copy of the winding-up petition or the winding-up order, as the case may be, to the Land Registry.

(2) The Land Registrar shall, on receipt of the copy of the winding-up petition or winding-up order, as the case may be, referred to in subsection (1)-

- (a) enter particulars of that petition or order in the register; and
- (b) endorse particulars of that petition or order on any record at the Land Registry in respect of a relevant owner.

(3) If the petitioner referred to in subsection (1) fails to comply with that subsection no action or proceeding under the Companies Ordinance (Cap 32) shall be commenced or proceeded with until such time as he complies with that subsection, and any action or proceeding which has been commenced in respect of the corporation shall be stayed by the tribunal or otherwise cease and be of no effect until such time as that petitioner complies with that subsection.

(Added 27 of 1993 s. 28)

Section:	34B	Interpretation		30/06/1997
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In this Part-

"commencement of the winding up" (清盤開始) means the time of the presentation of the petition to the tribunal for the winding up of the corporation;

"relevant owner" (有關業主) means-

- (a) a person who, at any time between the date of the commencement of the winding up and the date on which the Land Registrar enters particulars of the winding-up petition in the register under section 34A(2)(a) ("the relevant period" (有關期間)), appears from the records at the Land Registry to be or to have been the owner of a share in a building maintained by a corporation the subject of that petition; and
- (b) a registered mortgagee in possession of that share during that relevant period.

(Added 27 of 1993 s. 28)

Section:	34C	Application		30/06/1997
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## PART VIA

### DEEDS OF MUTUAL COVENANT

(1) This Part, except where otherwise expressly provided, applies only to a building in respect of which a deed of mutual covenant is in force whether that deed came into force before or after the material date.

(2) In the event of any inconsistency between this Part and the terms of a deed of mutual covenant or any other agreement, this Part shall prevail.

(Added 27 of 1993 s. 29)

Section:	34D	Interpretation	L.N. 92 of 2007	01/08/2007
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(1) In this Part and Schedules 7 & 8, unless the context otherwise require- (Amended 5 of 2007 s. 56)

"DMC manager" (公契經理人), in relation to a building, means the person who is specified in the deed of mutual covenant to manage the building; (Added 5 of 2007 s. 20)

"manager" (經理人), in relation to a building, means the DMC manager or any other person who for the time being is, for the purposes of the deed of mutual covenant, managing the building; (Replaced 5 of 2007 s. 20)

"material date" (關鍵日期) means the commencement of section 29 of the Multi-storey Building (Owners

Incorporation) (Amendment) Ordinance 1993 (27 of 1993);

"owners' committee" (業主委員會), in relation to a building, means the committee of owners (howsoever named) formed under or in accordance with the deed of mutual covenant in respect of the building. (Replaced 5 of 2007 s. 20)

(2) In this Part and Schedule 7, a reference to a resolution of the owners' committee is a reference to a resolution passed by a majority of the votes of the members of the owners' committee present at a meeting convened and conducted in accordance with the deed of mutual covenant. (Amended 5 of 2007 s. 56)

(3) In this Part and Schedule 7, a reference to a resolution of the owners is-

- (a) if there is a corporation, a reference to a resolution passed at a general meeting of the corporation convened and conducted in accordance with Schedule 3; or (Amended 5 of 2007 s. 56)
- (b) if there is no corporation, a reference to a resolution passed by a majority of the votes of the owners voting either personally or by proxy at a general meeting convened and conducted in accordance with the deed of mutual covenant.

(4) (Repealed 5 of 2007 s. 20)

(Added 27 of 1993 s. 29)

Section:	34E	Mandatory terms in deeds of mutual covenant	L.N. 92 of 2007	01/08/2007
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(1) Subject to subsection (4), the provisions in Schedule 7 shall be impliedly incorporated- (Amended 5 of 2007 s. 57)

- (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.

(2) 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.

(3) This section shall not operate to attach new legal consequences to any act done or omission occurring under a deed of mutual covenant before the material date.

(4) The Authority may-

- (a) subject to subsection (5), upon application by the manager of the building or any other person having an interest in the management of the building; or
- (b) in the case of an exempt estate, upon the application of the person ("the single manager" (單一經理人) ) who for the time being is, for the purpose of the deed of mutual covenant in respect of the buildings or groups of buildings comprising the estate, managing that estate,

from time to time by notice in the Gazette, exclude the application to the building, or to the buildings or groups of buildings comprising the exempt estate, as the case may be, of paragraph 7 of Schedule 7 for a period not exceeding 3 years and subject to such conditions (if any) as he sees fit.

(5) The Authority shall not exclude the application to the building of paragraph 7 of Schedule 7 under subsection (4)(a) if the Authority receives a number of notices of objection from the owners of not less than 50% of the shares in aggregate in respect of that building, such notices opposing the application under that subsection.

(6) Subject to subsection (7), the Authority may, upon application by any owner, manager, person referred to in section 3(1)(a) or (b), any other person having an interest in the management of a building or any single manager, specify by order published in the Gazette the addition of any estate to, or the deletion of any estate (being an exempt estate) from, Schedule 9.

(7) No estate may be so specified under subsection (6) if-

- (a) the Authority receives a number of notices of objection from the owners of not less than 50% of the shares in aggregate in respect of the buildings or groups of buildings comprising the estate, such notices opposing the addition of that estate to, or the deletion of that estate (being an exempt estate) from, Schedule 9;
- (b) the conditions (if any) imposed under subsection (4) are not met or complied with; and
- (c) in the case of the proposed addition of an estate to Schedule 9, the buildings or groups of buildings comprising the estate are not being managed by a single manager.

(8) The Authority shall prepare and publish in the Gazette guidelines relating to the exercise of the Authority's discretion under subsection (4) and shall, when considering an application under that subsection, have regard to those guidelines.

(Added 27 of 1993 s. 29. Amended 5 of 2007 s. 57)

Section:	34F	Terms added if consistent with deed of mutual covenant	L.N. 92 of 2007	01/08/2007
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(1) The provisions in Schedule 8 shall, to the extent that they are consistent with the deed of mutual covenant, be impliedly incorporated- (Amended 5 of 2007 s. 58)

- (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.

(2) Subject to subsection (3), the provisions incorporated into a deed of mutual covenant by virtue of this section shall bind the owners and manager of the building.

(3) Any provision in Schedule 8 that is impliedly incorporated into a deed of mutual covenant under this section may, insofar as that provision is so incorporated, by a resolution of the owners, be amended, deleted, or re-incorporated into the deed of mutual covenant. (Amended 5 of 2007 s. 58)

(4) This section shall not operate to attach new legal consequences to any act done or omission occurring under a deed of mutual covenant before the material date.

(Added 27 of 1993 s. 29)

Section:	34G	Management expenses of unsold property		30/06/1997
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(1) If, at the time a deed of mutual covenant was or is made in respect of a building, any share in the building had not or has not been sold, the owner for the time being of the share shall, for so long as it remains unsold, be liable to pay the management expenses relating to the share as if he had purchased that share subject to the deed of mutual covenant.

(2) This section shall not operate to make any person liable to pay management expenses in respect of a period before the material date.

(Added 27 of 1993 s. 29)

Section:	34H	Duty to maintain property	L.N. 242 of 2000	01/08/2000
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(1) Where a person who owns any part of a building, has the right to the exclusive possession of any part of a building or has the exclusive right to the use, occupation or enjoyment of that part, as the case may be, but the deed of mutual covenant in respect of the building does not impose an obligation on that person to maintain the part in good repair and condition, that person shall maintain that part in good repair and condition. (Amended 69 of 2000 s. 14)

(2) The obligation in subsection (1) shall be deemed to be an obligation owed to all owners of the building under the deed of mutual covenant.

(Added 27 of 1993 s. 29)

Section:	34I	Common parts		30/06/1997
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(1) No person may-

- (a) convert any part of the common parts of a building to his own use unless such conversion is approved by a resolution of the owners' committee (if any);
- (b) use or permit to be used the common parts of a building in such a manner as-
  - (i) unreasonably to interfere with the use and enjoyment of those parts by any owner or occupier of the building; or
  - (ii) to cause a nuisance or hazard to any person lawfully in the building.

(2) Any person who contravenes subsection (1) shall be deemed to be in breach of an obligation imposed on him by the deed of mutual covenant in respect of the building.

(Added 27 of 1993 s. 29)

Section:	34J	Right to establish corporation and conduct business	L.N. 92 of 2007	01/08/2007
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(1) No provision in a deed of mutual covenant or other agreement shall operate to prevent the owners of any building from being registered as a corporation under this Ordinance and any such provision shall be void and of no

effect.

(2) No provision in a deed of mutual covenant (whether such provision is of a procedural nature or otherwise) shall operate to prevent any business relating to the management of a building being conducted at any meeting by any owner or any person managing the building and any such provision shall be void and of no effect.

(3) Any provision in a deed of mutual covenant relating to a quorum at any meeting the attainment of which is in practice impossible or virtually impossible to achieve and which has the effect of preventing or frustrating the consideration at that meeting of any business relating to the management of a building by any owner or any person managing the building shall be void and of no effect.

(4) The reference to "any business relating to the management of a building" in this section shall be construed to include any such business relating to-

- (a) the appointment of a management committee under section 3, 3A, 4 or 40C; or (Amended 5 of 2007 s. 21)
- (b) the termination of a manager's appointment in accordance with Schedule 7. (Amended 5 of 2007 s. 59)

(Added 27 of 1993 s. 29)

Section:	34K	Management committee to replace owners' committee	L.N. 92 of 2007	01/08/2007
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Where a management committee in respect of a building is or has been appointed under section 3, 3A, 4 or 40C, the members of the management committee for the time being shall be deemed, for the purposes of the deed of mutual covenant in respect of that building, to be the owners' committee and shall- (Amended 69 of 2000 s. 15)

- (a) to the exclusion of any other persons have all the functions, powers and duties of the owners' committee under the deed of mutual covenant; and
- (b) in relation to those functions, powers and duties be subject to Schedule 2, even if that Schedule is inconsistent with the deed of mutual covenant. (Amended 5 of 2007 s. 60)

(Added 27 of 1993 s. 29)

Section:	34L	Indemnity of manager in respect of legal costs, etc.		30/06/1997
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No provision in a deed of mutual covenant or other agreement shall operate to entitle the manager of any building to be indemnified by a corporation or by the owners of the flats in that building in respect of any legal costs, charges, expenses or fees relating to any civil or criminal proceedings (whether successful or otherwise) between or in respect of that manager and that corporation or those owners and any such provision shall be void and of no effect.

(Added 27 of 1993 s. 29)

Section:	35	Penalty for improper use of "Incorporated Owners"	L.N. 242 of 2000	01/08/2000
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## PART VII

### MISCELLANEOUS

Any person who, not being a corporation incorporated under this Ordinance, uses a name or title containing the words "Incorporated Owners" or "Owners' Corporation" or the Chinese characters therefor, or other words or Chinese characters implying that such person is a corporation incorporated under this Ordinance, shall be guilty of an offence and shall be liable on conviction to a fine at level 3.

(Amended 27 of 1993 ss. 30 & 42; 69 of 2000 s. 16)

Section:	36	False statement or information	L.N. 242 of 2000	01/08/2000
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Any person who-

- (a) in any form required by this Ordinance, or in any notice or document given, issued or made for the purposes of this Ordinance, makes any statement or furnishes any information; or
- (b) furnishes any information required to be furnished under this Ordinance,

which he knows, or reasonably ought to know, to be false in a material particular, shall be guilty of an offence and

shall be liable on conviction to a fine at level 3 and to imprisonment for 6 months.

(Amended 27 of 1993 s. 42; 69 of 2000 s. 17)

Section:	37	Saving for resolutions passed at meetings		30/06/1997
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A resolution passed at any meeting convened under this Ordinance shall not be invalid by reason only of the omission to give notice of the meeting to any person entitled to such notice.

Section:	38	Secretary to maintain register		30/06/1997
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(1) The secretary of a management committee shall maintain a register, in which each flat in the building concerned shall be separately identified, and shall enter therein the following particulars with reference to each flat-

- (a) the name and address of the owner; and
- (b) the name and address of the registered mortgagee (if any).

(2) For the purposes of subsection (1)-

- (a) the address of an owner shall be the address of the flat which he owns; and
- (b) the address of a registered mortgagee shall be his address appearing in the registered mortgage,

unless the owner or registered mortgagee notifies the secretary of the management committee in writing of some other address.

(3) Every person who becomes an owner or a registered mortgagee of a flat shall forthwith give notice thereof to the secretary of the management committee, who shall amend the register accordingly.

(4) The register maintained under subsection (1) shall be open to inspection by the Authority, an authorized officer, the tenants' representative, an owner or a registered mortgagee or any person duly authorized in writing in that behalf by an owner or registered mortgagee. (Replaced 27 of 1993 s. 31)

Section:	39	Determination of owner's shares		30/06/1997
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An owner's share shall be determined-

- (a) in the manner provided in an instrument including a deed of mutual covenant (if any) which is registered in the Land Registry; or (Amended 8 of 1993 s. 2)
- (b) if there is no such instrument, or the instrument contains no such provision, then in the proportion which his undivided share in the building bears to the total number of shares into which the building is divided.

(Amended 27 of 1993 s. 32)

Section:	40	Powers of entry and inspection		30/06/1997
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(1) A member of a management committee and any other person authorized in that behalf by the management committee may, on reasonable notice to the owner or occupier thereof, enter a flat at any reasonable time for the purpose of- (Amended 27 of 1993 s. 33)

- (a) inspecting, repairing, maintaining or renewing-
  - (i) any common parts in the flat; or
  - (ii) any other property in the flat the condition of which does or may affect adversely the common parts or other owners;
- (b) abating any hazard or nuisance which does or may adversely affect the common parts or other owners.

(2) A magistrate may, if satisfied by information on oath that it is necessary for any person to break into any flat which he is empowered to enter under subsection (1), by warrant authorize such person to break into the flat in the presence of a police officer.

(3) Notwithstanding section 19(2), any costs incurred by the management committee in connection with the exercise by it of the powers conferred by subsection (1)(a)(ii) or (b) shall be recoverable by the corporation as a civil debt from the owner of the flat in respect of which such costs were incurred. (Amended 27 of 1993 ss. 33 & 42)



Section:	40A	Powers of Authority or authorized officer	L.N. 242 of 2000	01/08/2000
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(1) The Authority or an authorized officer may, for the purpose of ascertaining the manner in which a building is being controlled, managed or administered-

- (a) enter and inspect any common parts of a building;
- (b) attend any general meeting of a corporation;
- (c) require a corporation or any person managing the building to furnish him with such information in the possession of the corporation or that person, as the case may be, as the Authority of authorized officer may specify in relation to the control, management and administration of the building;
- (d) inspect the books or records of account and other records maintained under section 27(1) including any accounts relating to any fund established and maintained under section 20; and
- (e) inspect any other documents or records kept by a corporation in relation to any of its functions, duties or powers.

(2) Any person who obstructs, or fails to comply with a reasonable requirement of, the Authority or an authorized officer acting under subsection (1) commits an offence and is liable to a fine at level 4. (Amended 69 of 2000 s. 18)

(Added 27 of 1993 s. 34)

Section:	40B	Appointment of building management agent by order of Authority	L.N. 92 of 2007	01/08/2007
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(1) Where it appears to the Authority in the case of any building having a management committee that-

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

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

(2) Where a management committee without reasonable excuse fails to comply with an order made under subsection (1), every member of the management committee shall be guilty of an offence and shall be liable on conviction to a fine at level 5 and in the case of a continuing offence, to a further daily fine of \$1000 for each day during which the offence continues, unless he proves-

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

(3) For the purposes of this section and section 40C, a person is eligible to be appointed as a building management agent if his name appears in a list of persons engaged in the business of the management of buildings compiled by the Authority from time to time and published in the Gazette. (Replaced 5 of 2007 s. 22)

(Added 69 of 2000 s. 19)

Section:	40C	Appointment of management committee or building management agent by order of tribunal	L.N. 92 of 2007	01/08/2007
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(1) Where upon the application of the Authority it appears to the tribunal in the case of any building that—

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

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

- (2) The matters referred to in subsection (1) are, consecutively—
- (a) to consider and, if thought fit, to pass a resolution which appoints a management committee;
  - (b) where that resolution is not passed, to consider and, if thought fit, to pass a resolution which appoints a building management agent,
- for the purposes of managing that building.
- (3) At a meeting of owners convened under this section, the owners may, by a resolution passed by a majority of the votes of the owners voting either personally or by proxy, appoint—
- (a) a management committee; or
  - (b) (if no management committee is appointed) a building management agent. (Replaced 5 of 2007 s. 23)
- (3A) If no management committee or building management agent is appointed at the meeting of owners, the convenor may appoint a building management agent directly. (Added 5 of 2007 s. 23)
- (4) The convenor shall, at least 14 days before the date of the meeting of owners, give notice of the meeting to each owner and the person referred to in section 3(1)(a) or (b) (if any). (Replaced 5 of 2007 s. 23)
- (5) The notice of meeting shall specify—
- (a) the date, time and place of the meeting; and
  - (b) the resolutions that are to be proposed at the meeting and are related only to the appointment of a management committee, the incorporation of the owners and the appointment of a building management agent. (Added 5 of 2007 s. 23)
- (6) The notice of meeting may be given—
- (a) in the case of an owner—
    - (i) by delivering it personally to the owner;
    - (ii) by sending it by post to the owner at his last known address; or
    - (iii) by leaving it at the owner's flat or depositing it in the letter box for that flat; or
  - (b) in the case of a person referred to in section 3(1)(a) or (b)—
    - (i) by delivering it personally to the person; or
    - (ii) by sending it by post to the person at his last known address. (Added 5 of 2007 s. 23)
- (7) The convenor shall also, at least 14 days before the date of the meeting of owners, display the notice of meeting in a prominent place in the building. (Added 5 of 2007 s. 23)
- (8) The convenor shall preside at a meeting of owners convened under this section. (Added 5 of 2007 s. 23)
- (9) The quorum at a meeting of owners convened under this section shall be 10% of the owners. (Added 5 of 2007 s. 23)
- (10) At a meeting of owners convened under this section—
- (a) each owner shall have one vote;
  - (b) an owner may cast a vote personally or by proxy;
  - (c) in the case of co-owners, the vote may be cast—
    - (i) by a proxy jointly appointed by the co-owners;
    - (ii) by a person appointed by the co-owners from amongst themselves; or
    - (iii) if no appointment is made under subparagraph (i) or (ii), either by one of the co-owners personally or by a proxy appointed by one of the co-owners; and
  - (d) where, in the case of co-owners, more than one of the co-owners seeks to cast a vote, only the vote that is cast, whether personally or by proxy, by the co-owner whose name, in order of priority, stands highest in the register kept at the Land Registry shall be treated as valid. (Added 5 of 2007 s. 23)
- (11) For the purposes of subsection (10)—
- (a) the instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and—
    - (i) shall be signed by the owner; or
    - (ii) if the owner is a body corporate, shall, notwithstanding anything to the contrary in its constitution, be impressed with the seal or chop of the body corporate and signed by a person authorized by the body corporate in that behalf;
  - (b) the instrument appointing a proxy shall be lodged with the convenor at least 48 hours before the time for the holding of the meeting;
  - (c) the instrument appointing a proxy is valid only if it is made and lodged in accordance with paragraphs (a) and (b);
  - (d) a proxy appointed by an owner to attend and vote on behalf of the owner shall, for the purposes of the

- meeting, be treated as being the owner present at the meeting; and
- (e) where an instrument appointing a proxy is lodged with the convenor, the convenor shall—
    - (i) acknowledge receipt of the instrument by leaving a receipt at the flat of the owner who made the instrument, or depositing the receipt in the letter box for that flat, before the time for the holding of the meeting;
    - (ii) determine the validity of the instrument in accordance with paragraph (c); and
    - (iii) display information of the owner's flat in a prominent place in the place of the meeting before the time for the holding of the meeting, and cause the information to remain so displayed until the conclusion of the meeting. (Added 5 of 2007 s. 23)

(12) Subject to subsection (13), the convenor shall keep all the instruments for the appointment of proxies that have been lodged with him for a period of at least 12 months after the conclusion of the meeting. (Added 5 of 2007 s. 23)

(13) Where a management committee or building management agent is appointed at a meeting of owners convened under this section—

- (a) the convenor shall deliver to the management committee or building management agent, as the case may be, immediately after the conclusion of the meeting all the instruments for the appointment of proxies that have been lodged with him; and
- (b) the management committee or building management agent, as the case may be, shall keep the instruments for a period of at least 12 months after the conclusion of the meeting. (Added 5 of 2007 s. 23)

(14) Subject to subsection (15), where a meeting of owners convened under this section is adjourned, subsections (4), (5), (6), (7), (8), (9), (10), (11), (12) and (13) shall apply to the adjourned meeting as they apply to the original meeting. (Added 5 of 2007 s. 23)

(15) Where a meeting of owners convened under this section is adjourned, a valid instrument appointing a proxy made for the purposes of the original meeting shall remain valid for the purposes of the adjourned meeting unless—

- (a) contrary intention is shown on the instrument;
- (b) the instrument is revoked; or
- (c) the instrument is replaced by a new instrument appointing a proxy. (Added 5 of 2007 s. 23)

(Added 69 of 2000 s. 19)

Section:	40D	Powers of building management agent appointed following order of tribunal	L.N. 92 of 2007	01/08/2007
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(1) A building management agent appointed under section 40C may carry on any activity or business relating to the management of a building, including without limitation, any activity or business of the description mentioned in Schedule 7 in relation to the activities or business of a manager. (Amended 5 of 2007 s. 62)

(2) An order made under section 40C may direct that a building management agent appointed under section 40C(2)(b) shall hold his appointment for a fixed period on such terms and conditions as to remuneration and expenses or otherwise in respect of the carrying on by him of any activity or business relating to the management of the building as the tribunal shall think fit and specify in the order and the remuneration and expenses of the building management agent as so specified shall be a debt due to him from the owners in accordance with their respective shares at the time that that remuneration and those expenses are payable.

(Added 69 of 2000 s. 19)

Section:	41	Power to make regulations	L.N. 92 of 2007	25/05/2007
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The Chief Executive in Council may make regulations for any of the following matters- (Amended 34 of 1999 s. 3)

- (a) the fees payable in respect of the registration or filing of any documents submitted to the Land Registrar under this Ordinance; (Amended 8 of 1993 s. 3)
- (b) the fees payable for the inspection or copying of any document so registered or filed;
- (c) the fees payable for the issue of any certificate under this Ordinance;
- (ca) the effecting of policies of insurance in respect of third party risks and against fire and other risks by corporations with insurance companies and the conditions and requirements which are to apply in

respect of those policies, including without limitation-

- (i) the conditions and requirements in respect of policies which are binding on corporations; (Amended 5 of 2007 s. 24)
- (ii) the conditions and requirements in respect of policies which are binding on insurance companies;
- (iii) the conditions to policies which are to be void and of no effect;
- (iv) the duty of insurance companies to satisfy judgments against corporations in respect of third party risks; (Amended 5 of 2007 s. 24)
- (v) (Repealed 5 of 2007 s. 24)
- (vi) the effect of the insolvency or winding up of a corporation in respect of claims by third parties; (Amended 5 of 2007 s. 24)
- (vii) the avoidance of the imposition by insurance companies of restrictions on the scope of policies covering third party risks;
- (viii) the conditions and requirements as to the minimum amount of insurance cover;
- (ix) the conditions and requirements as to the system of accounts to be kept and the returns to be furnished by insurance companies;
- (x) the obligations of third parties; (Added 69 of 2000 s. 20)
- (xi) the avoidance of any arrangements, agreements or understandings, or parts thereof, made or reached in respect of the liability of corporations towards third parties; (Added 5 of 2007 s. 24)
- (d) prescribing anything which is to be or may be prescribed under this Ordinance;
- (e) the better carrying out of the purposes of this Ordinance.

Section:	42	Power to amend Schedules	L.N. 92 of 2007	01/08/2007
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(1) The Chief Executive may, by order published in the Gazette, amend the Schedules other than Schedules 7 and 9.

(2) The Chief Executive in Council may, by order published in the Gazette, amend Schedule 7.

(3) The Authority may, by order published in the Gazette, amend Schedule 9.

(Replaced 27 of 1993 s. 35. Amended 34 of 1999 s. 3; 5 of 2007 s. 63)

Section:	43	Saving of owner's rights		30/06/1997
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Nothing in this Ordinance shall prevent an owner from selling, assigning, mortgaging, charging, leasing or otherwise disposing of or dealing with his share.

(Amended 27 of 1993 s. 42)

Section:	44	Codes of Practice	L.N. 242 of 2000	01/08/2000
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(1) The Authority may from time to time prepare, revise and issue Codes of Practice giving guidance and direction as to-

- (a) the procurement of supplies, goods and services required by a corporation including such procurement by invitation to tender and the tender procedure in respect thereof;
- (b) the standards and practices of management and safety that are to be observed and followed by a corporation including standards and practices relating to-
  - (i) building management;
  - (ii) building safety;
  - (iii) fire safety;
  - (iv) slope safety;
  - (v) lifts and escalators; and
  - (vi) utilities and other installations in the common parts of a building. (Replaced 69 of 2000 s. 21)

(2) A failure on the part of any person to observe any Code of Practice issued under subsection (1) shall not of itself render that person liable to criminal proceedings of any kind but any such failure may, in any proceedings whether civil or criminal including proceedings for an offence under this Ordinance, be relied upon as tending to establish or to negative any liability which is in question in those proceedings.

(Added 27 of 1993 s. 36)

Section:	45	Jurisdiction of tribunal in relation to building management	L.N. 92 of 2007	01/08/2007
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PART VIII

JURISDICTION VESTED IN LANDS TRIBUNAL

- (1) The tribunal shall have jurisdiction to hear and determine any proceedings specified in Schedule 10.
- (2) No person other than a person to whom this section applies shall be competent to commence any proceedings referred to in subsection (1).
- (3) Subject to the provisions of this Ordinance, nothing in this section or Schedule 10 shall be construed to vest in the tribunal any jurisdiction other than civil jurisdiction or any jurisdiction to make any order which would, if made, have the effect of rendering void, negating or substantially varying in whole or in part any contractual or proprietary right enjoyed by any owner or occupier or otherwise referred to in the terms and provisions of an instrument which is registered in the Land Registry including a deed of mutual covenant (if any). (Amended 69 of 2000 s. 22)
- (4) This section applies to the following persons, namely-
- (a) an owner;
  - (aa) the Authority; (Added 69 of 2000 s. 22)
  - (b) a person referred to in section 3(1)(a) or (b);
  - (c) a management committee;
  - (d) a corporation;
  - (e) a manager within the meaning of Part VIA;
  - (f) an owners' committee within the meaning of that Part;
  - (g) a registered mortgagee;
  - (h) an administrator;
  - (i) with leave of the tribunal, the tenants' representative; or
  - (j) with leave of the tribunal, any other person specified in an instrument which is registered in the Land Registry including a deed of mutual covenant (if any).
- (5) In this section and Schedule 10, "proprietary right" (所有權權利) includes any such right express or implied whether specified in an easement, licence, permission or otherwise.

(Amended 5 of 2007 s. 64)  
(Part VIII added 27 of 1993 s. 37)

Schedule:	1	COMMON PARTS	L.N. 92 of 2007	01/08/2007
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SCHEDULE 1

[sections 2 & 42]  
(Amended 5 of 2007 s. 25)

1. External walls and load bearing walls, foundations, columns, beams and other structural supports.
2. Walls enclosing passageways, corridors and staircases.
3. The roofs, chimneys, gables, gutters, lightning conductors, satellite dishes and ancillary equipment, aerials and aerial cables. (Amended 27 of 1993 s. 38)
4. Parapet walls, fences and boundary walls.
5. Vents serving 2 or more flats. (Amended 27 of 1993 s. 42)
6. Water tanks, reservoirs, pumps, wells, sewers, sewage treatment plants, drains, soil pipes, waste pipes, channels, water-courses, gutters, ducts, downpipes, cables, conduits, refuse chutes, hoppers and refuse container chambers. (Amended 27 of 1993 s. 38)
7. Cellars, toilets, water closets, wash houses, bathhouses, kitchens and caretakers' flats.

- 8. Passageways, corridors, staircases, landings, light wells, staircase window frames and glazing, hatchways, roofways and outlets to the roofs and doors and gates giving access thereto.
- 9. Lifts, escalators, lift shafts and machinery and apparatus used in connection therewith and the housing thereof.
- 10. Lighting apparatus, air conditioning apparatus, central heating apparatus, fire fighting equipment and installations intended for the use and benefit of all of the owners generally and any room or chamber in which such apparatus, equipment or installation is fitted or installed.
- 11. Fixtures situated in a flat which are used in connection with the enjoyment of any other flat or other portion of the building.
- 12. Lawns, gardens and playgrounds and any other recreational areas. (Added 27 of 1993 s. 38)
- 13. Swimming pools, tennis courts, basketball courts, squash courts and premises containing or housing any other sporting or recreational facilities. (Added 27 of 1993 s. 38)
- 14. Clubhouses, gymnasiums, sauna rooms and premises containing health or leisure facilities. (Added 27 of 1993 s. 38)
- 15. Slopes, gradients and retaining walls including sea walls (if any) comprising or forming part of any land which is in common ownership with the building. (Added 27 of 1993 s. 38)

Schedule:	1A	FORMS	L.N. 92 of 2007	01/08/2007
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[sections 3, 3A, 4, 40C & 42  
& Schedules 3 & 8]

FORM 1

INSTRUMENT OF PROXY FOR MEETINGS OF OWNERS

Meeting of the owners of .....  
(description of building)

I/We, ..... (name(s) of owner(s)), being the owner(s)  
of ..... (unit and address of building), hereby  
appoint ..... (name of proxy) \*[or failing him .....  
(name of alternative proxy)], as my/our proxy to attend and vote on my/our behalf at the meeting of the owners of the  
building described above, to be held on the ..... day of ..... \*[and at any  
adjournment thereof].

Dated this ..... day of .....

(Signature of owner(s))

\*Delete where inapplicable.

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FORM 2

INSTRUMENT OF PROXY FOR MEETINGS OF CORPORATION

The Incorporated Owners of .....  
 (description of building)

I/We, ..... (name(s) of owner(s)), being the owner(s)  
 of ..... (unit and address of  
 building), hereby appoint ..... (name of proxy) \*[or failing  
 him ..... (name of alternative proxy)], as my/our proxy to attend and vote  
 on my/our behalf at the [\*general meeting/annual general meeting] of The Incorporated Owners  
 of ..... (description of building), to be held on  
 the ..... day of ..... \*[and at any adjournment thereof].

Dated this ..... day of .....

(Signature of owner(s))

\*Delete where inapplicable.

(Schedule 1A added 5 of 2007 s. 26)

Schedule:	2	COMPOSITION AND PROCEDURE OF MANAGEMENT COMMITTEE	L.N. 92 of 2007	01/08/2007
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\* SCHEDULE 2

[sections 2, 6, 7, 14, 18, 34K  
 & 42 & Schedule 3]  
 (Amended 5 of 2007 s. 27)

1. (1) The number of members of a management committee shall be as follows—
  - (a) where the building contains not more than 50 flats, the number of members shall be not less than 3;
  - (b) where the building contains more than 50 flats but not more than 100 flats, the number of members shall be not less than 7;
  - (c) where the building contains more than 100 flats, the number of members shall be not less than 9.
- (2) Subject to subparagraph (1), the number of members of a management committee shall be decided by a resolution of the owners under paragraph 2(1)(a).
- (3) Subject to subparagraph (1), the number of members of a management committee as decided under paragraph 2(1)(a) may be changed from time to time by a resolution of the owners passed at a general meeting of the corporation (except a general meeting of the corporation convened under paragraph 6A(1)).
- (4) A management committee shall include the tenants' representative (if any) appointed under section 15(1).  
 (Replaced 5 of 2007 s. 27)

1A. In paragraph 1, "flats" (單位) does not mean any garage, carpark or carport.

(Added 69 of 2000 s. 23)

2. (1) At a meeting of owners convened under section 3, 3A, 4 or 40C, after a management committee is appointed—
  - (a) the owners shall, by a resolution passed by a majority of the votes of the owners, decide the number of members of the management committee;
  - (b) subject to subparagraph (2), the owners shall, by resolution, appoint, from amongst the owners, the members of the management committee;
  - (c) the owners shall, by resolution—
    - (i) appoint a person, from amongst the members of the management committee, as the chairman of the management committee;
    - (ii) appoint a person, whether or not he is a member of the management committee, as the secretary of the management committee; and
    - (iii) appoint a person, whether or not he is a member of the management committee, as the treasurer

of the management committee; and

(d) the owners may, by resolution, appoint a person, from amongst the members of the management committee, as the vice-chairman of the management committee. (Replaced 5 of 2007 s. 27)

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

(3) For the purposes of appointing the members of a management committee under subparagraph (1)(b)—

(a) where the number of candidates is not more than the number of members of the management committee to be appointed, the candidates shall be deemed to be appointed as members of the management committee, and a resolution to that effect shall be deemed to be passed under subparagraph (1)(b) accordingly;

(b) where there are more candidates than the number of members of the management committee to be appointed—

(i) the votes shall be given and counted in accordance with the simple or relative majority system of voting (otherwise known as the "first past the post" system of voting), under which—

(A) an owner may vote for not more than the number of members of the management committee to be appointed; and

(B) the candidates to be appointed as members of the management committee are those who obtain the greatest number of votes and then the next greatest and so on until the required number of members of the management committee is appointed;

(ii) if, after the counting is finished, a member of the management committee is still to be appointed and the most successful candidates remaining have an equal number of votes, the person who presides at the meeting shall determine the result by drawing lots, and the candidate on whom the lot falls is to be appointed as a member of the management committee. (Added 5 of 2007 s. 27)

(4) For the purposes of appointing the chairman, vice-chairman (if applicable), secretary and treasurer of a management committee under subparagraph (1)(c) and (d)—

(a) where there is only one candidate for the office of the chairman, vice-chairman, secretary or treasurer of the management committee, the candidate shall be deemed to be appointed as the chairman, vice-chairman, secretary or treasurer, as the case may be, of the management committee, and a resolution to that effect shall be deemed to be passed under subparagraph (1)(c) or (d), as the case may be, accordingly;

(b) where there is more than one candidate for the office of the chairman, vice-chairman, secretary or treasurer of the management committee—

(i) the votes shall be given and counted in accordance with the simple or relative majority system of voting (otherwise known as the "first past the post" system of voting), under which the candidate to be appointed as the chairman, vice-chairman, secretary or treasurer, as the case may be, of the management committee is the candidate who obtains the greatest number of votes;

(ii) if, after the counting is finished, the most successful candidates for the office of the chairman, vice-chairman, secretary or treasurer of the management committee have an equal number of votes, the person who presides at the meeting shall determine the result by drawing lots, and the candidate on whom the lot falls is to be appointed as the chairman, vice-chairman, secretary or treasurer, as the case may be, of the management committee. (Added 5 of 2007 s. 27)

(5) A person who is not a member of the management committee appointed under subparagraph (1)(b) does not by virtue of his appointment as the secretary or treasurer of the management committee under subparagraph (1)(c)(ii) or (iii), as the case may be, become a member of the management committee. (Added 5 of 2007 s. 27)

(6) For the purposes of appointing the members, chairman, vice-chairman (if applicable), secretary and treasurer of a management committee under subparagraph (1)(b), (c) and (d) at a meeting of owners convened under section 3, 3A, 4 or 40C—

(a) if the meeting is convened under section 3, the provisions in section 3(7), (8), (9), (10), (11), (12), (13) and (14) shall apply as they apply for the purposes of appointing a management committee under section 3;

(b) if the meeting is convened under section 3A, the provisions in section 3A(3E), (3F), (3G), (3H), (3I), (3J), (3K) and (3L) shall apply as they apply for the purposes of appointing a management committee under section 3A;

(c) if the meeting is convened under section 4, the provisions in section 4(9), (10), (11), (12), (13), (14),



(15) and (16) shall apply as they apply for the purposes of appointing a management committee under section 4; or

- (d) if the meeting is convened under section 40C, the provisions in section 40C(8), (9), (10), (11), (12), (13), (14) and (15) shall apply as they apply for the purposes of appointing a management committee under section 40C. (Added 5 of 2007 s. 27)

(Replaced 27 of 1993 s. 39)

3. Subject to section 14 and paragraph 4, the members of the management committee appointed under paragraph 2(1)(b) shall hold office until the members of a new management committee are appointed under paragraph 5(2)(a).

(Amended 69 of 2000 s. 23; 5 of 2007 s. 27)

4. (1) For the purposes of section 14(2) and paragraphs 2(1)(b), 5(2)(a), 6 and 6A, a person is not eligible to be appointed as a member of a management committee if he—

- (a) is an undischarged bankrupt at the time of the appointment or has, within the previous 5 years, either obtained a discharge in bankruptcy or entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap 6) with his creditors, in either case without paying the creditors in full;
- (b) has, within the previous 5 years, been convicted of an offence in Hong Kong or any other place for which he has been sentenced to imprisonment, whether suspended or not, for a term exceeding 3 months without the option of a fine. (Replaced 5 of 2007 s. 27)

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

- (a) becomes disqualified for appointment as a member of a management committee under sub-paragraph (1);
- (b) becomes incapacitated by physical or mental illness;
- (c) absents himself from 3 or more consecutive meetings of the management committee without the consent of the management committee;
- (d) resigns his office, by notice in writing delivered to the secretary of the management committee or (if he is the secretary or the office of the secretary is vacant) the chairman of the management committee; (Amended 5 of 2007 s. 27)
- (da) in the case of a person deemed to be appointed under paragraph 2(2) in his capacity as the tenants' representative, ceases to be an occupier of a flat; (Added 27 of 1993 s. 39)
- (e) ceases to be an owner, if appointed in his capacity as an owner; or (Amended 5 of 2007 s. 27)
- (f) is removed from office by resolution of the corporation.

(3) Every member of the management committee appointed under section 14(2) or paragraph 2(1)(b), 5(2)(a), 6 or 6A shall, within 21 days after the appointment, lodge with the secretary of the management committee a declaration, in such form as the Land Registrar may specify, stating that he does not fall within the description of subparagraph (1)(a) or (b). (Added 5 of 2007 s. 27)

(4) A member of the management committee who fails to comply with subparagraph (3) shall cease to be such member. (Added 5 of 2007 s. 27)

(5) Subject to subparagraph (7), where a change occurs in any matter stated in a declaration referred to in subparagraph (3), the person who made the declaration shall, within 21 days after the change occurs, lodge with the secretary of the management committee another declaration, in such form as the Land Registrar may specify, stating the particulars of the change. (Added 5 of 2007 s. 27)

(6) The secretary of the management committee shall—

- (a) after receiving a declaration by virtue of subparagraph (3) from a member of the management committee appointed under paragraph 2(1)(b), cause the declaration to be lodged with the Land Registrar within the period of 28 days referred to in section 7(1);
- (b) within 28 days after receiving a declaration by virtue of subparagraph (3) from a member of the management committee appointed under section 14(2) or paragraph 5(2)(a), 6 or 6A, or by virtue of subparagraph (5), lodge with the Land Registrar the declaration. (Added 5 of 2007 s. 27)

(7) Where the person referred to in subparagraph (5) is the secretary of the management committee, that person shall, within 28 days after the relevant change occurs, lodge with the Land Registrar a declaration, in such form as the Land Registrar may specify, stating the particulars of the change. (Added 5 of 2007 s. 27)

5. (1) At the second annual general meeting of a corporation convened in accordance with paragraph 1(1)(b) of

Schedule 3 and thereafter at every alternate annual general meeting— (Amended 5 of 2007 ss. 27 & 65)

- (a) all members of the management committee (other than the member (if any) deemed to be appointed under paragraph 2(2) in his capacity as the tenants' representative);
- (b) if the secretary of the management committee is not a member of the management committee, the secretary; and
- (c) if the treasurer of the management committee is not a member of the management committee, the treasurer,

shall retire from office. (Amended 5 of 2007 s. 27)

(2) At an annual general meeting of a corporation at which the members of the management committee retire under subparagraph (1)—

- (a) subject to subparagraph (2A), the corporation shall, by a resolution passed at the general meeting, appoint, from amongst the owners, the members of a new management committee;
- (b) the corporation shall, by a resolution passed at the general meeting—
  - (i) appoint a person, from amongst the members of the new management committee, as the chairman of the new management committee;
  - (ii) appoint a person, whether or not he is a member of the new management committee, as the secretary of the new management committee; and
  - (iii) appoint a person, whether or not he is a member of the new management committee, as the treasurer of the new management committee; and
- (c) the corporation may, by a resolution passed at the general meeting, appoint a person, from amongst the members of the new management committee, as the vice-chairman of the new management committee. (Replaced 5 of 2007 s. 27)

(2A)The tenants' representative appointed under section 15(1) shall be deemed to be appointed by the corporation as a member of the new management committee. (Added 5 of 2007 s. 27)

(2B)For the purposes of appointing the members of the new management committee under subparagraph (2)(a)

- (a) where the number of candidates is not more than the number of members of the new management committee to be appointed, the candidates shall be deemed to be appointed as members of the new management committee, and a resolution to that effect shall be deemed to be passed under subparagraph (2)(a) accordingly;
- (b) where there are more candidates than the number of members of the new management committee to be appointed—
  - (i) the votes shall be given and counted in accordance with the simple or relative majority system of voting (otherwise known as the "first past the post" system of voting), under which—
    - (A) an owner may vote for not more than the number of members of the new management committee to be appointed; and
    - (B) the candidates to be appointed as members of the new management committee are those who obtain the greatest number of votes and then the next greatest and so on until the required number of members of the new management committee is appointed;
  - (ii) if, after the counting is finished, a member of the new management committee is still to be appointed and the most successful candidates remaining have an equal number of votes, the person who presides at the meeting shall determine the result by drawing lots, and the candidate on whom the lot falls is to be appointed as a member of the new management committee. (Added 5 of 2007 s. 27)

(2C)For the purposes of appointing the chairman, vice-chairman (if applicable), secretary and treasurer of the new management committee under subparagraph (2)(b) and (c)—

- (a) where there is only one candidate for the office of the chairman, vice-chairman, secretary or treasurer of the new management committee, the candidate shall be deemed to be appointed as the chairman, vice-chairman, secretary or treasurer, as the case may be, of the new management committee, and a resolution to that effect shall be deemed to be passed under subparagraph (2)(b) or (c), as the case may be, accordingly;
- (b) where there is more than one candidate for the office of the chairman, vice-chairman, secretary or treasurer of the new management committee—
  - (i) the votes shall be given and counted in accordance with the simple or relative majority system of

voting (otherwise known as the “first past the post” system of voting), under which the candidate to be appointed as the chairman, vice-chairman, secretary or treasurer, as the case may be, of the new management committee is the candidate who obtains the greatest number of votes;

- (ii) if, after the counting is finished, the most successful candidates for the office of the chairman, vice-chairman, secretary or treasurer of the new management committee have an equal number of votes, the person who presides at the meeting shall determine the result by drawing lots, and the candidate on whom the lot falls is to be appointed as the chairman, vice-chairman, secretary or treasurer, as the case may be, of the new management committee. (Added 5 of 2007 s. 27)

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

(4) A person who is not a member of the new management committee appointed under subparagraph (2)(a) does not by virtue of his appointment as the secretary or treasurer of the new management committee under subparagraph (2)(b)(ii) or (iii), as the case may be, become a member of the new management committee. (Added 5 of 2007 s. 27)

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

(Added 27 of 1993 s. 39. Amended 5 of 2007 s. 27)

6. (1) Notwithstanding paragraph 1, subject to subparagraph (1A) and paragraph 6A, a vacancy in a management committee which occurs other than by reason of the expiration of the term of office may be filled by the corporation or the management committee under subparagraph (3), (4) or (5), as the case requires. (Replaced 5 of 2007 s. 27)

(1A) If the vacancy is caused by the tenants' representative ceasing to be a member of the management committee for whatever reason, the vacancy may be filled by the approved association (within the meaning of section 15(2)) appointing a new tenants' representative under section 15(1). (Replaced 5 of 2007 s. 27)

(1B) (Repealed 5 of 2007 s. 27)

(2) (Repealed 5 of 2007 s. 27)

(3) If the vacancy occurs in the office of a member of a management committee (other than a vacancy caused by the tenants' representative ceasing to be a member of the management committee)—

- (a) the corporation may, by a resolution passed at a general meeting of the corporation, appoint an owner to fill the vacancy till the next annual general meeting of the corporation at which the members of the management committee retire under paragraph 5(1); or
- (b) if no general meeting of the corporation has been so convened or no appointment is made to fill the vacancy at a general meeting so convened, the management committee may appoint an owner to fill the vacancy till the next general meeting of the corporation. (Added 5 of 2007 s. 27)

(4) If the vacancy occurs in the office of the chairman or vice-chairman of a management committee—

- (a) the corporation may, by a resolution passed at a general meeting of the corporation, appoint a person, from amongst the members of the management committee, to fill the vacancy till the next annual general meeting of the corporation at which the members of the management committee retire under paragraph 5(1); or
- (b) if no general meeting of the corporation has been so convened or no appointment is made to fill the vacancy at a general meeting so convened, the members of the management committee may appoint a person, from amongst themselves, to fill the vacancy till the next general meeting of the corporation. (Added 5 of 2007 s. 27)

(5) If the vacancy occurs in the office of the secretary or treasurer of a management committee—

- (a) the corporation may, by a resolution passed at a general meeting of the corporation, appoint a person, whether or not he is a member of the management committee, to fill the vacancy till the next annual general meeting of the corporation at which the members of the management committee retire under paragraph 5(1); or
- (b) if no general meeting of the corporation has been so convened or no appointment is made to fill the

vacancy at a general meeting so convened, the management committee may appoint a person, whether or not he is a member of the management committee, to fill the vacancy till the next general meeting of the corporation. (Added 5 of 2007 s. 27)

(6) A person who is not a member of a management committee does not by virtue of his appointment as the secretary or treasurer of the management committee under subparagraph (5)(a) or (b), as the case may be, become a member of the management committee. (Added 5 of 2007 s. 27)

(7) For the purposes of filling the vacancy occurring in the office of a member of a management committee under subparagraph (3)(a)—

- (a) where the number of candidates is not more than the number of members of the management committee to be appointed, the candidates shall be deemed to be appointed as members of the management committee, and a resolution to that effect shall be deemed to be passed under subparagraph (3)(a) accordingly;
- (b) where there are more candidates than the number of members of the management committee to be appointed—
  - (i) the votes shall be given and counted in accordance with the simple or relative majority system of voting (otherwise known as the "first past the post" system of voting), under which—
    - (A) an owner may vote for not more than the number of members of the management committee to be appointed; and
    - (B) the candidates to be appointed as members of the management committee are those who obtain the greatest number of votes and then the next greatest and so on until the required number of members of the management committee is appointed;
  - (ii) if, after the counting is finished, a member of the management committee is still to be appointed and the most successful candidates remaining have an equal number of votes, the person who presides at the meeting shall determine the result by drawing lots, and the candidate on whom the lot falls is to be appointed as a member of the management committee. (Added 5 of 2007 s. 27)

(8) For the purposes of filling the vacancy occurring in the office of the chairman or vice-chairman of a management committee under subparagraph (4)(a), or the office of the secretary or treasurer of a management committee under subparagraph (5)(a)—

- (a) where there is only one candidate for the office of the chairman, vice-chairman, secretary or treasurer of the management committee, the candidate shall be deemed to be appointed as the chairman, vice-chairman, secretary or treasurer, as the case may be, of the management committee, and a resolution to that effect shall be deemed to be passed under subparagraph (4)(a) or (5)(a), as the case may be, accordingly;
- (b) where there is more than one candidate for the office of the chairman, vice-chairman, secretary or treasurer of the management committee—
  - (i) the votes shall be given and counted in accordance with the simple or relative majority system of voting (otherwise known as the "first past the post" system of voting), under which the candidate to be appointed as the chairman, vice-chairman, secretary or treasurer, as the case may be, of the management committee is the candidate who obtains the greatest number of votes;
  - (ii) if, after the counting is finished, the most successful candidates for the office of the chairman, vice-chairman, secretary or treasurer of the management committee have an equal number of votes, the person who presides at the meeting shall determine the result by drawing lots, and the candidate on whom the lot falls is to be appointed as the chairman, vice-chairman, secretary or treasurer, as the case may be, of the management committee. (Added 5 of 2007 s. 27)

6A. (1) Notwithstanding paragraphs 1 and 9, where the number of vacancies occurring in the offices of members of a management committee is more than 50% of the number of members of the management committee as decided under paragraph 2(1)(a) or, if that number of members has been changed under paragraph 1(3), 50% of the number of members so changed—

- (a) the chairman of the management committee may convene a general meeting of the corporation for the sole purpose of filling the vacancies in the management committee; or
- (b) if one of the vacancies occurs in the office of the chairman of the management committee, the remaining members of the management committee may appoint a person, from amongst themselves, to convene a general meeting of the corporation for the sole purpose of filling the vacancies in the

management committee.

- (2) For the purposes of filling the vacancies in a management committee under subparagraph (1)—
- (a) paragraph 6(3)(a), (4)(a), (5)(a), (6), (7) and (8) shall apply as it applies where the number of vacancies occurring in the offices of members of a management committee is not more than 50% of the number of members of the management committee as decided under paragraph 2(1)(a) or, if that number of members has been changed under paragraph 1(3), 50% of the number of members so changed; and
  - (b) Schedule 3 (except paragraph 1 of that Schedule) shall, subject to the following modifications, apply as it applies to a general meeting of the corporation convened by a management committee—
    - (i) where the general meeting of the corporation is convened under subparagraph (1)(a) and one of the vacancies occurs in the office of the secretary of the management committee, the references to the secretary of the management committee in Schedule 3 shall be construed as references to the chairman of the management committee;
    - (ii) where the general meeting of the corporation is convened under subparagraph (1)(b), the references to the chairman of the management committee in Schedule 3 shall be construed as references to the person appointed under that subparagraph to convene the meeting;
    - (iii) where the general meeting of the corporation is convened under subparagraph (1)(b) and one of the vacancies occurs in the office of the secretary of the management committee, the references to the secretary of the management committee in Schedule 3 shall be construed as references to the person appointed under that subparagraph to convene the meeting.

(Added 5 of 2007 s. 27)

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

(Replaced 27 of 1993 s. 39)

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

- (a) may be convened at any time by the chairman or the vice-chairman (if any) in the absence of the chairman; and
- (b) shall be convened by the secretary, at the request of any 2 members thereof, within 14 days of receiving such request, and held within 21 days of receiving such request. (Amended 5 of 2007 s. 27)

(2) The secretary shall, at least 7 days before the date of the meeting of the management committee, give notice of the meeting to each member of the management committee and (if the treasurer of the management committee is not a member of the management committee) the treasurer of the management committee, and display the notice of meeting in a prominent place in the building. (Replaced 5 of 2007 s. 27)

(2AA) The notice of meeting shall specify—

- (a) the date, time and place of the meeting; and
- (b) the resolutions (if any) that are to be proposed at the meeting. (Added 5 of 2007 s. 27)

(2A) The notice of meeting may be given—

- (a) by delivering it personally to the member of the management committee or (if the treasurer of the management committee is not a member of the management committee) the treasurer of the management committee;
- (b) by sending it by post to the member or, if applicable, the treasurer, at his last known address; or
- (c) by leaving it at the flat of the member or, if applicable, the treasurer or depositing it in the letter box for that flat. (Replaced 5 of 2007 s. 27)

(3) (Repealed 5 of 2007 s. 27)

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

(Replaced 27 of 1993 s. 39)

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

- (a) the chairman; or
- (aa) in the absence of the chairman, the vice-chairman (if any); or (Added 27 of 1993 s. 39)
- (b) in the absence of the chairman and the vice-chairman (if any), a member appointed as chairman for that meeting by the management committee.

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

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

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

(4A) The minutes referred to in subparagraph (4) shall be certified by the person presiding over the meeting as containing a true record of the proceedings of the meeting of the management committee to which they relate. (Added 27 of 1993 s. 39)

(4B) The secretary shall display the minutes certified in accordance with subparagraph (4A) in a prominent place in the building within 28 days of the date of the meeting of the management committee to which the minutes relate, and cause the minutes to remain so displayed for at least 7 consecutive days. (Replaced 5 of 2007 s. 27)

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

10A. (1) The minutes certified in accordance with paragraph 10(4A) shall be kept by the management committee for such period, being not less than 6 years, as the corporation may determine.

(2) If the tenants' representative, an owner, a registered mortgagee or any person duly authorized in writing in that behalf by an owner or registered mortgagee requests in writing the corporation to supply him with copies of any minutes certified in accordance with paragraph 10(4A), the secretary shall, on the payment of such reasonable copying charge as the management committee may determine, supply such copies to that person.

(Added 5 of 2007 s. 27)

11. (1) Where an owner or other person, being a body corporate, is appointed as a member of a management committee under this Schedule that body corporate may appoint a director or other officer of that body or some other individual to act as its representative ("authorized representative" (獲授權代表)) for the purposes of this Ordinance as if the authorized representative were a member of the management committee in his own right and paragraph 4(1), (2)(a), (b), (c), (d) and (f), (3), (4) and (5) shall apply to the authorized representative. (Amended 5 of 2007 s. 27)

(2) If an authorized representative ceases to be a member of a management committee under paragraph 4(2)(a), (b), (c), (d) or (f) or (4), the body corporate may appoint another authorized representative in his place, and paragraph 4(1), (2)(a), (b), (c), (d) and (f), (3), (4) and (5) shall apply to that other authorized representative. (Replaced 5 of 2007 s. 27)

(Added 27 of 1993 s. 39)

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

(Added 27 of 1993 s. 39)

(Amended 27 of 1993 ss. 39 & 42)

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**Note:**

**\*Schedule 2 has been amended by the Building Management (Amendment) Ordinance 2007 (5 of 2007) ("the Amendment Ordinance"). Sections 38 and 39 of the Amendment Ordinance contain transitional provisions in relation to a management committee appointed under a deed of mutual covenant. The transitional provisions are reproduced below—**

**"38. Interpretation**

**In this Part—**

**\*\* "commencement date" (生效日期) means the day on which this Part comes into operation;**

**"corporation" (法團) has the meaning assigned to it by section 2 of the pre-amended Ordinance;**

**"management committee" (管理委員會) means a management committee appointed under section 3, 3A, 4 or 40C of the pre-amended Ordinance;**

**"pre-amended Ordinance" (未經修訂條例) means the Building Management Ordinance (Cap 344) as in force immediately before the commencement date;**

“transitional period” (過渡期) means a period of 4 years after the commencement date.

**39. Management committees appointed in accordance with deeds of mutual covenant**

(1) This section applies to a management committee of a corporation which has been appointed in accordance with a deed of mutual covenant under section 3(2)(a) of the pre-amended Ordinance and which is in existence immediately before the commencement date.

(2) Subject to subsection (3), during the transitional period, the amendments made by section 27 of this Ordinance to the Second Schedule to the pre-amended Ordinance shall not affect the composition and procedure of a management committee to which this section applies, and the Second Schedule to the pre-amended Ordinance shall continue to have effect with respect to the composition and procedure of the management committee as if section 27 of this Ordinance had not been enacted.

(3) Subsection (2) shall cease to have effect with respect to the composition and procedure of a management committee to which this section applies when—

(a) the corporation decides, by a resolution passed at a general meeting during the transitional period, that Schedule 2 to the Building Management Ordinance (Cap 344) as amended by section 27 of this Ordinance shall have effect with respect to the composition and procedure of the management committee; or

(b) (if no resolution referred to in paragraph (a) is passed during the transitional period) the transitional period expires,

and Schedule 2 to the Building Management Ordinance (Cap 344) as amended by section 27 of this Ordinance shall after such cessation have effect with respect to the composition and procedure of the management committee accordingly.” .

**\*\* Commencement date: 1 August 2007.**

Schedule:	3	MEETINGS AND PROCEDURE OF CORPORATION	L.N. 92 of 2007	01/08/2007
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SCHEDULE 3

[sections 8, 10, 27, 30, 34D & 42 & Schedules 2 & 11] (Amended 5 of 2007 s. 28)

1. (1) The management committee shall convene—
  - (a) the first annual general meeting of a corporation not later than 15 months after the date of the registration of the corporation;
  - (b) an annual general meeting not earlier than 12 months, and not later than 15 months, after the date of the first or previous annual general meeting; (Replaced 27 of 1993 s. 40)
  - (c) a general meeting of the corporation at any time for such purposes as the management committee thinks fit.

(2) The chairman of the management committee shall convene a general meeting of the corporation at the request of not less than 5% of the owners for the purposes specified by such owners within 14 days of receiving such request, and hold the general meeting within 45 days of receiving such request. (Amended 5 of 2007 s. 28)
2. (1) The secretary of the management committee shall, at least 14 days before the date of the meeting of the corporation, give notice of the meeting to each owner and the tenants’ representative (if any). (Replaced 5 of 2007 s. 28)
  - (1AA) The notice of meeting shall specify—
    - (a) the date, time and place of the meeting; and
    - (b) the resolutions (if any) that are to be proposed at the meeting or other matters that are to be discussed at the meeting. (Added 5 of 2007 s. 28)
  - (1A) The notice of meeting may be given— (Amended 5 of 2007 s. 28)
    - (a) by delivering it personally to the owner or tenants' representative (if any); or
    - (b) by sending it by post to the owner or tenants' representative (if any) at his last known address; or

(c) by leaving it at the flat of the owner or tenants' representative (if any) or depositing it in the letter box for that flat. (Replaced 5 of 2007 s. 28)

(Added 27 of 1993 s. 40. Amended 12 of 1998 s. 8; 5 of 2007 s. 28)

(2) The secretary shall also, at least 14 days before the date of the meeting of the corporation, display the notice of meeting in a prominent place in the building. (Replaced 5 of 2007 s. 28)

3. (1) A meeting of the corporation shall be presided over by—

(a) the chairman of the management committee;

(b) in the absence of the chairman of the management committee, the vice-chairman (if any) of the management committee; or

(c) in the absence of the chairman and the vice-chairman (if any) of the management committee, a person appointed by the owners present at the meeting from amongst themselves. (Replaced 5 of 2007 s. 28)

(2) (Repealed 5 of 2007 s. 28)

(3) Subject to section 10(1) and paragraphs 5(2), (2B) and (2C), 6(3)(a), (4)(a), (5)(a), (7) and (8) and 6A(2)(a) of Schedule 2, all matters arising at a meeting of the corporation at which a quorum is present shall be decided by a majority of the votes of the owners voting either personally or by proxy. (Amended 5 of 2007 s. 28)

(4) If there is an equality of votes the person presiding over the meeting shall have, in addition to a deliberative vote, a casting vote.

(5) (a) At any meeting of the corporation an owner shall, unless the deed of mutual covenant (if any) otherwise provides and subject to sub-paragraph (6), have one vote in respect of each share which he owns. (Amended 8 of 1993 s. 2; 5 of 2007 s. 28)

(b) Where 2 or more persons are the co-owners of a share, the vote in respect of the share may be cast—

(i) by a proxy jointly appointed by the co-owners;

(ii) by a person appointed by the co-owners from amongst themselves; or

(iii) if no appointment is made under sub-sub-paragraph (i) or (ii), either by one of the co-owners personally or by a proxy appointed by one of the co-owners. (Replaced 5 of 2007 s. 28)

(c) Where 2 or more persons are the co-owners of a share and more than one of the co-owners seeks to cast a vote in respect of the share, only the vote that is cast, whether personally or by proxy, by the co-owner whose name, in order of priority, stands highest in relation to that share in the register kept at the Land Registry shall be treated as valid. (Added 5 of 2007 s. 28)

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

(7) No resolution passed at any meeting of the corporation shall have effect unless the same was set forth in the notice given in accordance with paragraph 2 or is ancillary or incidental to a resolution or other matter so set forth. (Amended 5 of 2007 s. 28)

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

4. (1) At a meeting of the corporation, an owner may cast a vote personally or by proxy. (Amended 5 of 2007 s. 28)

(2) The instrument appointing a proxy shall be in the form set out in Form 2 in Schedule 1A, and— (Amended 5 of 2007 s. 28)

(a) shall be signed by the owner; or

(b) if the owner is a body corporate, shall, notwithstanding anything to the contrary in its constitution, be impressed with the seal or chop of the body corporate and signed by a person authorized by the body corporate in that behalf. (Amended 5 of 2007 s. 28)

(3) The instrument appointing a proxy shall be lodged with the secretary of the management committee at least 48 hours before the time for the holding of the meeting. (Replaced 5 of 2007 s. 28)

(4) The instrument appointing a proxy is valid only if it is made and lodged in accordance with subparagraphs (2) and (3). (Added 5 of 2007 s. 28)

(5) Where an instrument appointing a proxy is lodged with the secretary of the management committee—

(a) the secretary shall—

(i) acknowledge receipt of the instrument by leaving a receipt at the flat of the owner who made the instrument, or depositing the receipt in the letter box for that flat, before the time for the holding



of the meeting; and

(ii) display information of the owner's flat in a prominent place in the place of the meeting before the time for the holding of the meeting, and cause the information to remain so displayed until the conclusion of the meeting; and

(b) the chairman of the management committee or, if he is absent, the person who presides at the meeting, shall determine the validity of the instrument in accordance with subparagraph (4). (Added 5 of 2007 s. 28)

(6) The management committee shall keep all the instruments for the appointment of proxies that have been lodged with the secretary of the management committee for a period of at least 12 months after the conclusion of the meeting. (Added 5 of 2007 s. 28)

5. (1) The quorum at a meeting of the corporation shall be— (Amended 69 of 2000 s. 24)

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

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

(2) A proxy appointed by an owner to attend and vote on behalf of the owner at a meeting of the corporation shall, for the purposes of the meeting, be treated as being the owner present at the meeting. (Replaced 5 of 2007 s. 28)

5A. (1) Subject to subparagraph (2), where a meeting of the corporation convened under paragraph 1 is adjourned, paragraphs 2, 3, 4 and 5 shall apply to the adjourned meeting as they apply to the original meeting.

(2) Where a meeting of the corporation convened under paragraph 1 is adjourned, a valid instrument appointing a proxy made for the purposes of the original meeting shall remain valid for the purposes of the adjourned meeting unless—

(a) contrary intention is shown on the instrument;

(b) the instrument is revoked; or

(c) the instrument is replaced by a new instrument appointing a proxy.

(Added 5 of 2007 s. 28)

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

(2) The minutes referred to in subparagraph (1) shall be certified by the person presiding over the meeting as containing a true record of the proceedings of the general meeting to which they relate.

(3) The secretary shall display the minutes certified in accordance with subparagraph (2) in a prominent place in the building within 28 days of the date of the general meeting to which the minutes relate, and cause the minutes to remain so displayed for at least 7 consecutive days. (Replaced 5 of 2007 s. 28)

(Added 27 of 1993 s. 40)

6A. (1) The minutes certified in accordance with paragraph 6(2) shall be kept by the management committee for such period, being not less than 6 years, as the corporation may determine.

(2) If the tenants' representative, an owner, a registered mortgagee or any person duly authorized in writing in that behalf by an owner or registered mortgagee requests in writing the corporation to supply him with copies of any minutes certified in accordance with paragraph 6(2), the secretary shall, on the payment of such reasonable copying charge as the management committee may determine, supply such copies to that person.

(Added 5 of 2007 s. 28)

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

(Added 27 of 1993 s. 40)

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

(Added 27 of 1993 s. 40)

9. (Repealed 5 of 2007 s. 28)

(Amended 27 of 1993 ss. 40 & 42)

Schedule:	4	MAXIMUM ALLOWANCES PAYABLE TO CHAIRMAN, VICE-CHAIRMAN, SECRETARY AND TREASURER OF MANAGEMENT COMMITTEE	L.N. 92 of 2007	01/08/2007
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SCHEDULE 4

[sections 18 & 42]

MAXIMUM ALLOWANCES PAYABLE TO CHAIRMAN,  
VICE-CHAIRMAN, SECRETARY AND TREASURER  
OF MANAGEMENT COMMITTEE

(Amended 5 of 2007 s. 29)

Item	Number of flats	Maximum per month for each person \$
1.	Not more than 50	600
2.	More than 50 but not more than 100	900
3.	More than 100	1200

(Added 27 of 1993 s. 41. Amended 5 of 2007 s. 29)

Schedule:	5	ANNUAL BUDGET	L.N. 92 of 2007	01/08/2007
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SCHEDULE 5

[sections 21 & 42]

(Amended 5 of 2007 s. 30)

1. The amount to be determined by the management committee under section 21(1) shall be based upon a budget prepared by the management committee for the period specified by the management committee under that subsection.

2. The budget referred to in paragraph 1 shall set out the sums which in the opinion of the management committee will be reasonably necessary to meet payments of the kind specified in section 20(1) and shall, if a contingency fund is established under section 20(2), set out the sums which in the opinion of the management committee will be reasonably necessary to meet payments of the kind specified in that subsection.

3. A revised budget may be prepared if the management committee is of the opinion that any sum set out in a budget in respect of which the revised budget is to be prepared is insufficient to meet the proposed expenditure which that sum was intended to meet.

4. If the tenants' representative, an owner, a registered mortgagee or any person duly authorized in writing in that behalf by an owner or registered mortgagee requests in writing the corporation to supply him with copies of any budget referred to in this Schedule, the treasurer shall, on the payment of such reasonable copying charge as the management committee may determine, supply such copies to that person.

5. The treasurer shall, if requested by the Authority or an authorized officer and without raising any charge, supply the copies referred to in paragraph 4 to the Authority or that officer.

(Added 27 of 1993 s. 41)

Schedule:	6	ACCOUNTS	L.N. 92 of 2007	01/08/2007
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SCHEDULE 6

[sections 27 & 42]

1. All bills, invoices, vouchers, receipts and other documents referred to in the books or records of account and other records maintained under section 27(1) shall be kept by the management committee for such period, being not less than 6 years, as the corporation may determine.

1A. The management committee shall-

- (a) at the request of not less than 5% of the owners, permit those owners or any person appointed by those owners to inspect any bills, invoices, vouchers, receipts or other documents referred to in paragraph 1 at any reasonable time; and
- (b) permit any person authorized by the court to inspect any bills, invoices, vouchers, receipts or other documents referred to in paragraph 1 at any reasonable time.

(Added 5 of 2007 s. 31)

1B. For the purposes of paragraph 1A(b), an owner may apply to the court for an order authorizing the owner, or any other person named in the application, to inspect any bills, invoices, vouchers, receipts or other documents referred to in paragraph 1.

(Added 5 of 2007 s. 31)

1C. The court may make an order under paragraph 1B only if it is satisfied that-

- (a) the application is made in good faith; and
- (b) the inspection applied for is for a proper purpose.

(Added 5 of 2007 s. 31)

2. Within 1 month after each consecutive period of 3 months, or such shorter period as the management committee may select, the treasurer shall prepare a summary of the income and expenditure of the corporation in respect of that period, display a copy of the summary in a prominent place in the building, and cause it to remain so displayed for at least 7 consecutive days.

(Amended 5 of 2007 s. 31)

3. If the tenants' representative, an owner, a registered mortgagee or any person duly authorized in writing in that behalf by an owner or registered mortgagee requests in writing the corporation to supply him with copies of-

- (a) the financial statements and, if applicable, the accountant's report prepared under section 27; or  
(Amended 5 of 2007 s. 31)
- (b) a summary of the income and expenditure of the corporation prepared under paragraph 2,

the treasurer shall, on the payment of such reasonable copying charge as the management committee may determine, supply such copies to that person.

4. The treasurer shall, if requested by the Authority or an authorized officer and without raising any charge, supply the copies referred to in paragraph 3 to the Authority or that officer.

(Added 27 of 1993 s. 41)

Schedule:	7	MANDATORY TERMS IN DEEDS OF MUTUAL COVENANT	L.N. 92 of 2007	01/08/2007
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SCHEDULE 7

[sections 34D, 34E, 34J,  
40D & 42]

(Amended 69 of 2000 s. 25; 5 of 2007 s. 32)

**1. Determination of total amount of management expenses**

(1) Subject to subparagraphs (3), (5), (6) and (8), the total amount of management of a expenses payable by the owners during any period of 12 months adopted by the manager of a building as the financial year in respect of the

management of that building shall be the total proposed expenditure during that year as specified by the manager in accordance with subparagraph (2).

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

- (a) prepare a draft budget setting out the proposed expenditure during the financial year;
- (b) send a copy of the draft budget to the owners' committee or, where there is no owners' committee, display a copy of the draft budget in a prominent place in the building, and cause it to remain so displayed for at least 7 consecutive days; (Amended 5 of 2007 s. 32)
- (c) send or display, as the case may be, with the copy of the draft budget a notice inviting each owner to send his comments on the draft budget to the manager within a period of 14 days from the date the draft budget was sent or first displayed;
- (d) after the end of that period, prepare a budget specifying the total proposed expenditure during the financial year;
- (e) send a copy of the budget to the owners' committee or, where there is no owners' committee, display a copy of the budget in a prominent place in the building, and cause it to remain so displayed for at least 7 consecutive days. (Amended 5 of 2007 s. 32)

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

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

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

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

(6) If there is a corporation and, within a period of 1 month from the date that a budget or revised budget for a financial year is sent or first displayed in accordance with subparagraph (2) or (4), the corporation decides, by a resolution of the owners, to reject the budget or revised budget, as the case may be, the total amount of management expenses for the financial year shall, until another budget or revised budget is sent or displayed in accordance with subparagraph (2) or (4) and is not so rejected under this subparagraph, be deemed to be the same as the total amount of management expenses (if any) for the previous financial year, together with an amount not exceeding 10% of that total amount as the manager may determine.

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

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

## 2. Keeping of accounts

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

(2) Within 1 month after each consecutive period of 3 months, or such shorter period as the manager may select, the manager shall prepare a summary of income and expenditure and a balance sheet in respect of that period, display a copy of the summary and balance sheet in a prominent place in the building, and cause it to remain so displayed for at least 7 consecutive days. (Amended 5 of 2007 s. 32)

(3) Within 2 months after the end of each financial year, the manager shall prepare an income and expenditure account and balance sheet for that year, display a copy of the income and expenditure account and balance sheet in a prominent place in the building, and cause it to remain so displayed for at least 7 consecutive days. (Amended 5 of 2007 s. 32)

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

will be then needed.

(5) The manager shall-

- (a) permit any owner, at any reasonable time, to inspect the books or records of account and any income and expenditure account or balance sheet; and
- (b) on payment of a reasonable copying charge, supply any owner with a copy of any record or document requested by him.

(6) If there is a corporation and the corporation decides, by a resolution of the owners, that any income and expenditure account and balance sheet should be audited by an accountant or by some other independent auditor as may be specified in that resolution, the manager shall without delay arrange for such an audit to be carried out by that person and- (Amended 5 of 2007 s. 32)

- (a) permit any owner, at any reasonable time, to inspect the audited income and expenditure account and balance sheet and the report made by the accountant or auditor in respect of the income and expenditure account and balance sheet; and
- (b) on payment of a reasonable copying charge, supply any owner with a copy of the audited income and expenditure account and balance sheet, or the report made by the accountant or auditor in respect of the income and expenditure account and balance sheet, or both, as requested by the owner. (Amended 5 of 2007 s. 32)

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

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

(Amended 5 of 2007 s. 32)

(1) The manager shall open and maintain an interest-bearing account and shall use that account exclusively in respect of the management of the building. (Amended 5 of 2007 s. 32)

(1A) Without prejudice to the generality of subparagraph (1), if there is a corporation, the manager shall open and maintain one or more segregated interest-bearing accounts, each of which shall be designated as a trust account or client account, for holding money received by him from or on behalf of the corporation in respect of the management of the building. (Added 5 of 2007 s. 32)

(1B) The manager shall display a document showing evidence of any account opened and maintained under subparagraph (1) or (1A) in a prominent place in the building. (Added 5 of 2007 s. 32)

(2) Subject to subparagraphs (3) and (4), the manager shall without delay pay all money received by him in respect of the management of the building into the account opened and maintained under subparagraph (1) or, if there is a corporation, the account or accounts opened and maintained under subparagraph (1A). (Amended 5 of 2007 s. 32)

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

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

(5) Any reference in this paragraph to an account is a reference to an account opened with a bank within the meaning of section 2 of the Banking Ordinance (Cap 155), the title of which refers to the management of the building. (Amended 49 of 1995 s. 53)

### **4. Special fund**

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

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

(3) The manager shall open and maintain at a bank within the meaning of section 2 of the Banking Ordinance (Cap 155) an interest-bearing account, the title of which shall refer to the special fund for the building, and shall use that account exclusively for the purpose referred to in subparagraph (1). (Amended 49 of 1995 s. 53; 5 of 2007 s. 32)

(3A) Without prejudice to the generality of subparagraph (3), if there is a corporation, the manager shall open and maintain one or more segregated interest-bearing accounts, each of which shall be designated as a trust account or client account, for holding money received by him from or on behalf of the corporation in respect of the special fund. (Added 5 of 2007 s. 32)

(3B) The manager shall display a document showing evidence of any account opened and maintained under subparagraph (3) or (3A) in a prominent place in the building. (Added 5 of 2007 s. 32)

(4) The manager shall without delay pay all money received by him in respect of the special fund into the account opened and maintained under subparagraph (3) or, if there is a corporation, the account or accounts opened and maintained under subparagraph (3A). (Amended 5 of 2007 s. 32)

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

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

(1) Subject to subparagraphs (2) and (3), the manager shall not enter into any contract for the procurement of any supplies, goods or services the value of which exceeds or is likely to exceed the sum of \$200000 or such other sum in substitution therefor as the Authority may specify by notice in the Gazette unless-

- (a) the supplies, goods or services are procured by invitation to tender; and
- (b) the procurement complies with the Code of Practice referred to in section 20A(1).

(2) Subject to subparagraph (3), the manager shall not enter into any contract for the procurement of any supplies, goods or services the value of which exceeds or is likely to exceed a sum which is equivalent to 20% of the annual budget or such other percentage in substitution therefor as the Authority may specify by notice in the Gazette unless-

- (a) if there is a corporation-
  - (i) the supplies, goods or services are procured by invitation to tender;
  - (ii) the procurement complies with the Code of Practice referred to in section 20A(1); and
  - (iii) whether a tender submitted for the purpose is accepted or not is decided by a resolution of the owners passed at a general meeting of the corporation, and the contract is entered into with the successful tenderer; or
- (b) if there is no corporation-
  - (i) the supplies, goods or services are procured by invitation to tender;
  - (ii) the procurement complies with the Code of Practice referred to in section 20A(1); and
  - (iii) whether a tender submitted for the purpose is accepted or not is decided by a resolution of the owners passed at a meeting of owners convened and conducted in accordance with the deed of mutual covenant, and the contract is entered into with the successful tenderer.

(3) Subparagraphs (1) and (2) do not apply to any supplies, goods or services which but for this subparagraph would be required to be procured by invitation to tender (referred to in this subparagraph as "relevant supplies, goods or services")-

- (a) where there is a corporation, if-
  - (i) the relevant supplies, goods or services are of the same type as any supplies, goods or services which are for the time being supplied to the corporation by a supplier; and
  - (ii) the corporation decides by a resolution of the owners passed at a general meeting of the corporation that the relevant supplies, goods or services shall be procured from that supplier on such terms and conditions as specified in the resolution, instead of by invitation to tender; or
- (b) where there is no corporation, if-
  - (i) the relevant supplies, goods or services are of the same type as any supplies, goods or services which are for the time being supplied to the owners by a supplier; and
  - (ii) the owners decide by a resolution of the owners passed at a meeting of owners convened and conducted in accordance with the deed of mutual covenant that the relevant supplies, goods or services shall be procured from that supplier on such terms and conditions as specified in the resolution, instead of by invitation to tender.

(Replaced 5 of 2007 s. 32)

## 6. **Resignation of manger**

- (1) No resignation of the manager shall take effect unless he has previously given not less than 3 months' notice in writing of his intention to resign-
  - (a) by sending such a notice to the owners' committee; or
  - (b) where there is no owners' committee, by giving such a notice to each of the owners and by displaying such a notice in a prominent place in the building.
- (2) The notice referred to in subparagraph (1)(b) may be given- (Amended 5 of 2007 s. 32)
  - (a) by delivering it personally to the owner; or
  - (b) by sending it by post to the owner at his last known address; or
  - (c) by leaving it at the owner's flat or depositing it in the letter box for that flat. (Amended 12 of 1998 s. 9)  
(Amended 5 of 2007 s. 32)

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

- (1) Subject to subparagraph (5A), at a general meeting convened for the purpose, a corporation may, by a resolution-
  - (a) passed by a majority of the votes of the owners voting either personally or by proxy; and
  - (b) supported by the owners of not less than 50% of the shares in aggregate,
 terminate by notice the DMC manager's appointment without compensation. (Replaced 5 of 2007 s. 32)
- (2) A resolution under subparagraph (1) shall have effect only if-
  - (a) the notice of termination of appointment is in writing;
  - (b) provision is made in the resolution for a period of not less than 3 months notice or, in lieu of notice, provision is made for an agreement to be made with the DMC manager for the payment to him of a sum equal to the amount of remuneration which would have accrued to him during that period; (Replaced 69 of 2000 s. 25)
  - (c) the notice is accompanied by a copy of the resolution terminating the DMC manager's appointment; and
  - (d) the notice and the copy of the resolution is given to the DMC manager within 14 days after the date of the meeting.
- (3) The notice and the copy of the resolution referred to in subparagraph (2)(d) may be given- (Amended 5 of 2007 s. 32)
  - (a) by delivering them personally to the DMC manager; or
  - (b) by sending them by post to the DMC manager at his last known address.
  - (c) (Repealed 5 of 2007 s. 32)
- (4)-(5) (Repealed 5 of 2007 s. 32)
- (5A) For the purposes of subparagraph (1)-
  - (a) only the owners of shares who pay or who are liable to pay the management expenses relating to those shares shall be entitled to vote;
  - (b) the reference in subparagraph (1)(b) to "the owners of not less than 50% of the shares in aggregate" shall be construed as a reference to the owners of not less than 50% of the shares in aggregate who are entitled to vote. (Added 69 of 2000 s. 25. Amended 5 of 2007 s. 69)
- (5B) If a contract for the appointment of a manager other than a DMC manager contains no provision for the termination of the manager's appointment, subparagraphs (1), (2), (3) and (5A) apply to the termination of the manager's appointment as they apply to the termination of a DMC manager's appointment. (Added 5 of 2007 s. 32)
- (5C) Subparagraph (5B) operates without prejudice to any other power there may be in a contract for the appointment of a manager other than a DMC manager to terminate the appointment of the manager. (Added 5 of 2007 s. 32)
- (6) If a notice to terminate a manager's appointment is given under this paragraph-
  - (a) no appointment of a new manager shall take effect unless the appointment is approved by a resolution of the owners' committee (if any); and
  - (b) if no such appointment is approved under sub-subparagraph (a) by the time the notice expires, the corporation may appoint another manager and, if it does so, the corporation shall have exclusive power to appoint any subsequent manager.
- (7) If any person has given an undertaking in writing to, or has entered into an agreement with, the Government to manage or be responsible for the management of the building, and the corporation has appointed a manager under subparagraph (6)(b), the corporation shall be deemed to have given to that person an instrument of indemnity under

which the corporation shall be liable to indemnify that person in respect of any act or omission be the manager appointed under that subparagraph that may otherwise render that person liable for a breach of that undertaking or agreement.

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

(Amended 5 of 2007 s. 32)

**8. Obligations after manager's appointment ends**

(1) Subject to subparagraph (2), if the manager's appointment ends for any reason, he shall, as soon as practicable after his appointment ends, and in any event within 14 days of the date his appointment ends, deliver to the owners' committee (if any) or the manager appointed in his place any movable property in respect of the control, management and administration of the building that is under his control or in his custody or possession, and that belongs to the corporation (if any) or the owners. (Added 5 of 2007 s. 32)

(2) If the manager's appointment ends for any reason, he shall within 2 months of the date his appointment ends- (Amended 5 of 2007 s. 32)

(a) prepare-

(i) an income and expenditure account for the period beginning with the commencement of the financial year in which his appointment ends and ending on the date his appointment ended; and

(ii) a balance sheet as at the date his appointment ended,

and shall arrange for that account and balance sheet to be audited by an accountant or by some other independent auditor specified in a resolution of the owners' committee (if any) or, in the absence of any such specification, by such accountant or other independent auditor as may be chosen by the manager; and

(b) deliver to the owners' committee (if any) or the manager appointed in his place any books or records of accounts, papers, documents and other records which are required for the purposes of sub-subparagraph (a) and have not been delivered under subparagraph (1). (Replaced 5 of 2007 s. 32)

**9. Communication among owners**

The manager shall consult (either generally or in any particular case) the corporation at a general meeting of the corporation and adopt the approach decided by the corporation on the channels of communication among owners on any business relating to the management of the building.

(Added 5 of 2007 s. 32)

(Added 27 of 1993 s. 41)

Schedule:	8	TERMS ADDED IF CONSISTENT WITH DEED OF MUTUAL COVENANT	L.N. 92 of 2007	01/08/2007
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**SCHEDULE 8**

[sections 34D, 34F & 42 & Schedule 11]

(Amended 5 of 2007 s. 33)

**Meetings of owners' committee**

1. A meeting of the owners' committee may be convened at any time by the chairman or any 2 members of the owners' committee.

2. The person or persons convening the meeting of the owners' committee shall, at least 7 days before the date of the meeting, give notice of the meeting to each member of the owners' committee.

(Replaced 5 of 2007 s. 33)

2A. The notice of meeting referred to in paragraph 2 shall specify-

(a) the date, time and place of the meeting; and



(b) the resolutions (if any) that are to be proposed at the meeting.

(Added 5 of 2007 s. 33)

3. The notice of meeting referred to in paragraph 2 may be given- (Amended 5 of 2007 s. 33)

- (a) by delivering it personally to the member of the owners' committee; or
- (b) by sending it by post to the member of the owners' committee at his last known address; or
- (c) by leaving it at the member's flat or depositing it in the letter box for that flat. (Amended 12 of 1998 s. 10)

(Amended 5 of 2007 s. 33)

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

5. A meeting of the owners' committee shall be presided over by-

- (a) the chairman; or
- (b) in the absence of the chairman, a member of the owners' committee appointed as chairman for that meeting.

6. At a meeting of the owners' committee, each member present shall have 1 vote on a question before the committee and if there is an equality of votes the chairman shall have, in addition to a deliberative vote, a casting vote.

7. The procedure at meetings of the owners' committee shall be as is determined by the owners' committee.

#### **Meetings of owners**

8. A meeting of owners may be convened by-

- (a) the owners' committee;
- (b) the manager; or
- (c) an owner appointed to convene such a meeting by the owners of not less than 5% of the shares in aggregate.

(Replaced 5 of 2007 s. 33)

9. 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 owner.

(Replaced 5 of 2007 s. 33)

9A. The notice of meeting referred to in paragraph 9 shall specify-

- (a) the date, time and place of the meeting; and
- (b) the resolutions (if any) that are to be proposed at the meeting.

(Added 5 of 2007 s. 33)

10. The notice of meeting referred to in paragraph 9 may be given- (Amended 5 of 2007 s. 33)

- (a) by delivering it personally to the owner;
- (b) by sending it by post to the owner at his last known address; or
- (c) by leaving it at the owner's flat or depositing it in the letter box for that flat. (Amended 12 of 1998 s. 10)

(Amended 5 of 2007 s. 33)

11. The quorum at a meeting of owners shall be 10% of the owners.

11A. For the purposes of paragraph 11, the reference in that paragraph to "10% of the owners" shall-

- (a) be construed as a reference to 10% of the number of persons who are owners without regard to their ownership of any particular percentage of the total number of shares into which the building is divided; and

(b) not be construed as the owners of 10% of the shares in aggregate. (Amended 5 of 2007 s. 70)  
 (Added 69 of 2000 s. 26)

12. A meeting of owners shall be presided over by the chairman of the owners' committee or, if the meeting is convened under paragraph 8(b) or (c), the person convening the meeting.  
 (Replaced 5 of 2007 s. 33)

13. At a meeting of owners-

- (a) an owner shall have one vote in respect of each share he owns; (Replaced 5 of 2007 s. 33)
- (b) an owner may cast a vote personally or by proxy; (Replaced 5 of 2007 s. 33)
- (c) where 2 or more persons are the co-owners of a share, the vote in respect of the share may be cast—
  - (i) by a proxy jointly appointed by the co-owners;
  - (ii) by a person appointed by the co-owners from amongst themselves; or
  - (iii) if no appointment is made under sub-subparagraph (i) or (ii), either by one of the co-owners personally or by a proxy appointed by one of the co-owners; (Replaced 5 of 2007 s. 33)
- (ca) where 2 or more persons are the co-owners of a share and more than one of the co-owners seeks to cast a vote in respect of the share, only the vote that is cast, whether personally or by proxy, by the co-owner whose name, in order of priority, stands highest in relation to that share in the register kept at the Land Registry shall be treated as valid; and (Added 5 of 2007 s. 33)
- (d) if there is an equality of votes the person presiding over the meeting shall have, in addition to a deliberative vote, a casting vote.

14. (1) An instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and-

- (a) shall be signed by the owner; or
- (b) if the owner is a body corporate, shall, notwithstanding anything to the contrary in its constitution, be impressed with the seal or chop of the body corporate and signed by a person authorized by the body corporate in that behalf.

(2) The instrument appointing a proxy shall be lodged with the chairman of the owners' committee or, if the meeting is convened under paragraph 8(b) or (c), the person convening the meeting at least 48 hours before the time for the holding of the meeting.

(3) A proxy appointed by an owner to attend and vote on behalf of the owner shall, for the purposes of the meeting, be treated as being the owner present at the meeting.  
 (Replaced 5 of 2007 s. 33)

15. The procedure at a meeting of owners shall be as is determined by the owners.  
 (Added 27 of 1993 s. 41)

Schedule:	9	EXEMPT ESTATES	L.N. 92 of 2007	01/08/2007
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SCHEDULE 9 [sections 2, 34E & 42]  
(Amended 5 of 2007 s. 34)

EXEMPT ESTATES (Added 27 of 1993 s. 41)

Schedule:	10	HEARING AND DETERMINATION OF SPECIFIED PROCEEDINGS BY TRIBUNAL	L.N. 92 of 2007	01/08/2007
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SCHEDULE 10 [sections 42 & 45]  
(Amended 5 of 2007 s. 35)

1. Proceedings relating to the interpretation and enforcement of the provisions of this Ordinance.

2. Proceedings relating to the interpretation and enforcement of the terms and provisions of a deed of mutual covenant, including such terms or provisions impliedly incorporated into a deed of mutual covenant under Part VIA.
3. Proceedings relating to the use, occupation, enjoyment, possession or ownership of the common parts or any other part of a building in which the owners have a common interest.
4. Proceedings relating to the calculation or apportionment of-
  - (a) any sums payable or purported to be payable under a deed of mutual covenant (if any);
  - (b) the funds and contributions referred to in sections 20 and 21;
  - (c) any management expenses or charges (howsoever named);
  - (d) any other outgoings, payments, debts or liabilities due or liable under this Ordinance or in accordance with the terms and provisions of an instrument which is registered in the Land Registry including a deed of mutual covenant (if any).
5. Proceedings relating to any question of law concerning the powers and duties of-
  - (a) a corporation;
  - (b) a management committee, and of the chairman, secretary and treasurer thereof;
  - (c) a manager within the meaning of section 34D(1);
  - (d) an owners' committee within the meaning of that section;
  - (e) the tenants' representative,
 including such powers and duties (if any) of a financial, pecuniary or fiduciary nature.
6. Proceedings relating to any question of law concerning ownership, occupation or possession of the whole or any part of the building, including ownership or an undivided share in a building or in land on which there is a building.
7. Without prejudice to paragraph 6 and subject to section 45(3), proceedings relating to any question of law concerning the extent and applicability or otherwise of any contractual or proprietary right enjoyed by owners and occupiers or otherwise referred to in the terms and provisions of an instrument which is registered in the Land Registry including a deed of mutual covenant (if any).
8. Proceedings relating to any question of law concerning any breach or alleged breach of any covenant, term or condition specified in an instrument which is registered in the Land Registry including a deed of mutual covenant (if any).
9. Proceedings relating to the enforcement of any contractual or proprietary right referred to in paragraph 7 or any covenant, term or condition referred to in paragraph 8, as the case may be, whether by way of specific performance, injunction, declaration, damages or otherwise.

(Added 27 of 1993 s. 41)

Schedule:	11	ENUMERATION OF OWNERS	L.N. 92 of 2007	01/08/2007
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SCHEDULE 11

[sections 5B & 42]  
(Amended 5 of 2007 s. 36)

For the purposes of section 5B-

- (a) sections 3(8), 3A(3F), 4(10) and 40C(9) and paragraphs 1(2) and 5 of Schedule 3, paragraph 1A of Schedule 6 and paragraph 11 of Schedule 8 are specified; (Replaced 5 of 2007 s. 36)
- (b) the enumeration of the percentage of owners mentioned in the provisions specified in paragraph (a) shall be computed as follows-

Form of ownership

Illustration

To be counted as

- |    |  |   |   |
|----|--|---|---|
| 1. | Multiple ownership of 1 flat                                   | 1 flat with 3 co-owners   | 1 owner   |
| 2. | 1 owner owning more than 1 flat                                | 1 owner owning 35 flats   | 1 owner   |
| 3. | 1 person or more than 1 holding proxies from more than 1 owner | (a) 1 person holding proxies from 100 owners<br>(b) 35 persons holding proxies from 100 owners in aggregate | Voting rights equal to the number of valid proxies held. In the cases as illustrated, 100 owners.<br><br>(Schedule 11 added 69 of 2000 s. 27) |