
Preface

Achieve more in Building Rehabilitation with Active Participation and Lucid Workflow

‘Prevention is better than cure.’ This popular proverb, originally refers to the benefits of early detection and intervention for diseases, has homologous implications for building rehabilitation, in that regular and timely repair and upkeep is essential and efficacious in maintaining the sound overall condition of the building and hence, its safety and hygiene standards.

While rehabilitation of common parts of a building serves the interest of all owners, *fragmented ownership* remains the key obstacle for the majority of private buildings in Hong Kong to plan for building rehabilitation, not to mention the general lack of a solid understanding of the planning and management of building rehabilitation (which often involves professional tasks) among owners, which further dampens the confidence needed to reach consensus and organise rehabilitation works.

Drawing on years of experience in facilitating building rehabilitation, **the Urban Renewal Authority (URA)** understands owners’ hesitation and difficulties in the face of building rehabilitation which involves not just exorbitant expanses but also myriad uncertainties and pitfalls arisen from the lack of knowledge about the building rehabilitation workflow and the roles, rights and responsibilities of stakeholders, including the owners themselves, the owners’ organisations, the property management company, work consultants and contractors, etc., not to mention the meagre information available for reference and comparison concerning the scale and cost of works. The URA believes that with better access to information and support, owners can have a better grip on and confidence in building rehabilitation, thereby facilitating its completion with a reasonable price and conducted under open, fair and just process through which disputes can be minimised.

With this in mind, the ‘Building Rehabilitation Platform¹’ administered by **Hong Kong Building Rehabilitation Facilitation Services Limited (a wholly-owned subsidiary of the URA)** publishes this *Building Rehabilitation Guidebook* (the ‘Guidebook’) to offer perspicuous guidelines on the rehabilitation and maintenance of common parts of buildings, with a view to facilitating proper planning and implementation of rehabilitation works for buildings with an **Owners’ Corporation (OC)** (some of the content may also be useful reference for buildings without an OC). Laid out cohesively in ‘6 Steps to Building Rehabilitation²’, the Guide covers information on building rehabilitation, from preparation to procurement of work consultants and contractors, and to supervision and implementation, alongside supplementary ‘Simulated Scenarios’ and ‘Useful Tips’ to offer a realistic illustration of current building rehabilitation such that readers may take heed of possible misconducts in the process of building rehabilitation. In addition to citations of legislative provisions in force, suggested procedures and measures are also provided as recommended operation routine³. Last but not least, timely repair and maintenance are as important in private residential units as they are in common parts of buildings for the whole building to maintain its structural safety and hygiene.

¹ “Building Rehabilitation Platform” is a one-stop information platform offering owners comprehensive information and support in various professional fields under the auspices of relevant professional organisations, institutions and industry representatives. The URA has formed a subsidiary (**Hong Kong Building Rehabilitation Facilitation Services Limited**) to manage the operation of the Platform, under which three committees, namely Technical Committee, Service Providers Committee and Promotion Committee, are tasked with formulating plans and execution details concerning the best practice guidelines and regulations, cost estimation references, dedicated tender and contract templates for building rehabilitation, and service provider database available on the Platform.

² Refers to the 6 main procedures/steps to building rehabilitation. Please also refer to ‘Building Rehabilitation Platform’ website (www.brplatform.org.hk) for viewing of videos introducing each procedure concerning building rehabilitation.³ All simulated scenarios/examples in this Guidebook (which are entirely fictitious and for reference only, where no identification with actual persons or entities is intended or should be inferred) are intended to illustrate the possible misconducts in the process of building rehabilitation works as a reminder for **owners/OCs** to take heed of such risks and to appoint ethical registered work consultants and work contractors to carry out rehabilitation works.

³ All simulated scenarios/examples in this Guidebook (which are entirely fictitious and for reference only, where no identification with actual persons or entities is intended or should be inferred) are intended to illustrate the possible misconducts in the process of building rehabilitation works as a reminder for **owners/OCs** to take heed of such risks and to appoint ethical registered work consultants and work contractors to carry out rehabilitation works.

How to Use this Guidebook Effectively

This guide uses the following icons to facilitate quick search for necessary information:



Scan QR Codes to Watch Videos on ‘Building Rehabilitation Platform’ Website



Understand the Major Tasks in Building Rehabilitation



Useful Tip



Simulated Scenario



Refer to the Specified Section in this Guide



References



Document / Form / Template



Appendix – Relevant Information

Acknowledgement

This Guidebook was prepared by **Hong Kong Building Rehabilitation Facilitation Services Limited (a wholly-owned subsidiary of the URA)** in 2019. The following government departments, statutory bodies and professional organization for their valuable comments and contributions are gratefully acknowledged.

Government departments and statutory bodies	Professional organization (names not listed in order)
Buildings Department	Building Services Operation and Maintenance Executives Society Hong Kong Limited (BSOMES)
Fire Services Department	Chartered Association of Building Engineers Hong Kong Chapter (CABEHK)
Home Affairs Department	Contractor's Authorised Signatory Association Limited (CASA)
Independent Commission Against Corruption (ICAC)	Hong Kong General Building Contractors Association Limited (HKGBCA)
Hong Kong Housing Society	Hong Kong Institution of Certified Auditors Limited (HKICA)
	Hong Kong Institute of Construction Managers, Limited (HKICM)
	Hong Kong Institute of Certified Property Manager Limited (HKCPM)
	Professional Building Surveying Consultants Association of Hong Kong Limited (PBSCA)
	Registered Minor Works Contractor Signatory Association Limited (RMWCSA)
	The Association of Architectural Practices Limited (AAP)
	The Association of Registered Fire Service Installation Contractors of Hong Kong Limited (FSICA)
	The Chartered Institute of Building (Hong Kong) (CIOB-HK)
	The Federation of Hong Kong Property Mgt Industry Limited (FHKPMI)
	The Hong Kong Association of Property Management Companies Limited (HKAPMC)
	The Hong Kong Construction Association, Limited (HKCA)
	The Hong Kong Institute of Architects (HKIA)
	The Hong Kong Institute of Clerks of Works (HKICW)
	The Hong Kong Institute of Engineers (HKIE)
	The Hong Kong Institute of Housing (HKIH)
	The Hong Kong Institute of Surveyors (HKIS)
	Hong Kong Registered Contractors Association Co., Limited (HKRCA)
	The Institute of Clerks of Works and Construction Inspectorate (Hong Kong) (ICWCI)
	RICS International Limited (RICS)

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Disclaimer

This Guidebook provides general guidance only and does not purport to deal with all possible issues that may arise in any given situation. Explanations of the legal requirements under the relevant Ordinances are necessarily general and abbreviated from the layman's angle, and are based on those as applicable at the time of publication of this Guidebook. Steps and practices in relation to the management of building maintenance projects are by no means prescriptive or exhaustive, and do not preclude the need to seek professional technical advice and assistance from relevant professionals. Users of this Toolkit should seek legal advice or consult the relevant authorities in respect of the detailed requirements in force and professional advice and assistance in the carrying out of building maintenance projects as and when necessary. The **Hong Kong Building Rehabilitation Facilitation Services Limited** and its partners in the production of this Guidebook will not accept any liability, legal or otherwise, for loss occasioned to any person acting or refraining from action as a result of any material in this publication.

The cases and scenarios given in this Guidebook are for illustration only. No relation to any real person or entity is intended or should be inferred. The cases are intended to clarify some of the misconduct that may occur in a building rehabilitation project, thereby reminding the owner/corporation to pay attention to these risks and appoint qualified works consultant and works contractor to carry out building rehabilitation works.

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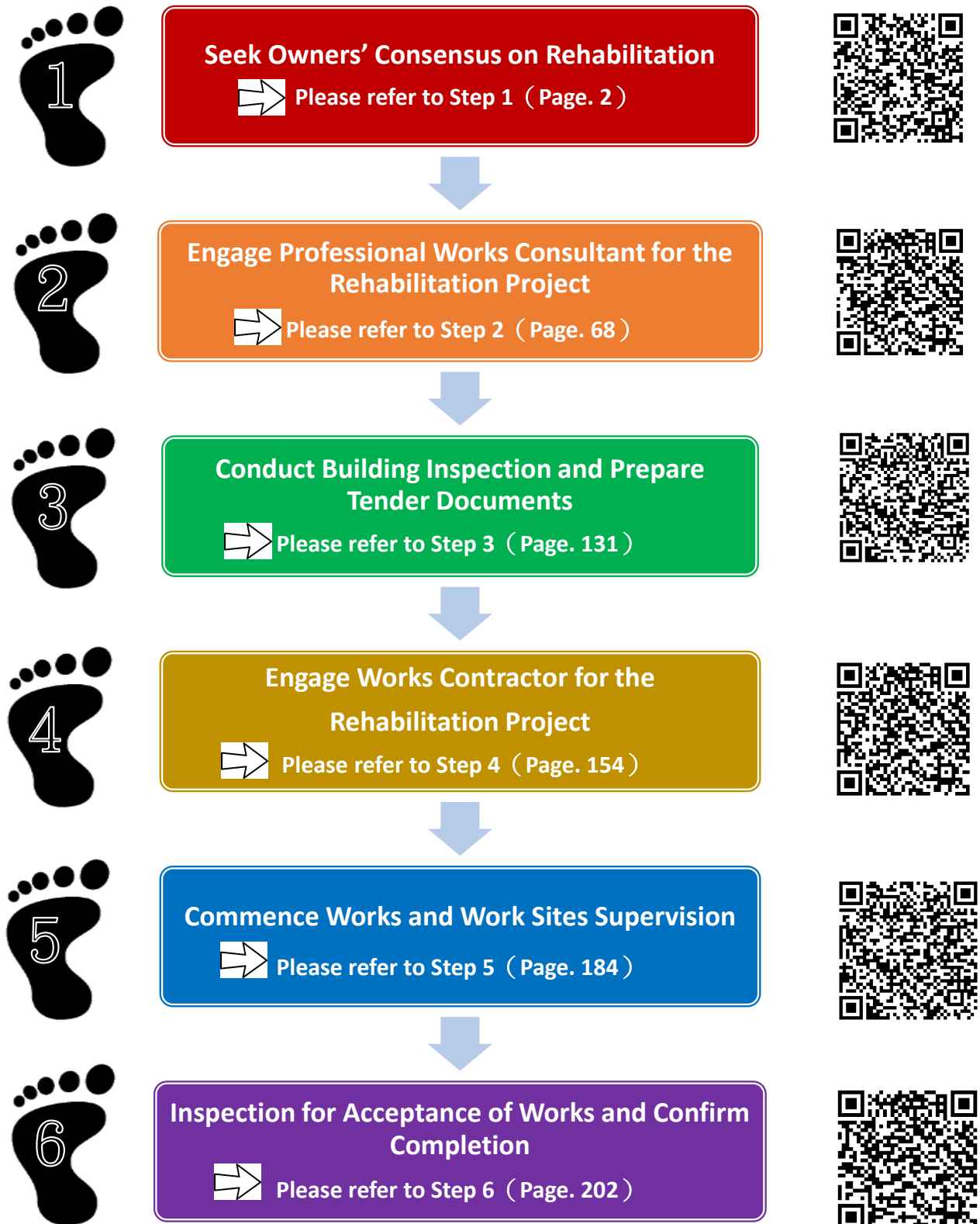
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6 Steps to Building Rehabilitation





Seek Owners' Consensus on Rehabilitation



Step 1 Milestones:

1.1 Understand Building Rehabilitation Thoroughly

- To understand why a building needs rehabilitation
- To understand owners' responsibilities in building rehabilitation and the consequences of its neglect
- To commence preparation tasks for building rehabilitation



1.2 Form an Owners' Corporation (OC) (Applicable to Buildings without OCs)

- To understand *Building Management Ordinance* and Deed of Mutual Covenant (DMC) of the building
- To understand the purpose, benefits, methods and procedures of forming an OC
- To understand the way through which building rehabilitation can be organised without an OC
- To understand the roles and responsibilities of each party involved



1.3 Convene Owners' Meetings about the Rehabilitation Project

- To understand the procedures and regulations of meetings



Step 1: Seek Owners' Consensus on Rehabilitation



(Scan QR Codes to Watch Videos on 'Building Rehab Platform' Website)

Section 1.1 Understand Building Rehabilitation

The first hurdle found in the planning of building rehabilitation, whether initiated voluntarily or done as requested by 'statutory orders/notices' on account of serious disrepair, is likely to concern the communication of the reasons behind and necessity of it to the owners.

To get it done smoothly and effectively, the first and foremost step is to get consensus among owners. Given its importance at the initial stage of building rehabilitation, owners are recommended to:

- (i) Properly and clearly communicate the reasons for building rehabilitation and the consequences of its neglect;
- (ii) Acquire useful information related to building rehabilitation;
- (iii) Understand the workflow of building rehabilitation and points to note at each stage.

Proper preparation helps not only buttresses owners' confidence in the intended project, but also minimises hiccups, disputes or misunderstandings in the future.

1.1.1 Why a Building Needs Rehabilitation

Reasons for Rehabilitation

To thoroughly understand building rehabilitation is to grasp it by the root, i.e. its purpose. Under general circumstances, an owner is driven by either one of the following reasons to set about getting his building rehabilitated:

- (1) Comprehensive rehabilitation voluntarily initiated by owners on account of obvious defects (voluntary);
- (2) 'Statutory orders/notices' issued by relevant authority prescribing mandatory rehabilitation of the building in serious disrepair (mandatory¹).

¹ Under the Mandatory Building Inspection Scheme (MBIS) commenced in 2011, each year the Government will serve notices on **owners** of target buildings aged 30 years or above demanding that inspection and relevant repair works to be done.

Useful Tip

What are ‘statutory orders/notices’?

When a building is found to be in a disrepair state that poses a threat to public safety or health, the relevant government departments (e.g. the **Buildings Department (BD)**) will intervene and advise/enforce on the **owners/OCs** that relevant repair works be carried out duly. It is the responsibility of the **owners/OCs** to comply with the statutory orders issued by the **BD** to carry out repair works immediately.

The **BD** will not initiate any works on behalf of the owners unless in exigent situations or when the **owners/OCs** concerned fail to comply with the orders, in which case the owners will be charged for the relevant works and their supervision plus surcharges upon work completion. The **BD** may take legal action against any **owners/OCs** failing to comply with the prescribed orders without reasonable excuse. Pursuant to the *Buildings Ordinance*, any person who fails to comply with an order served on him without reasonable excuse shall be guilty of a criminal offence and shall be liable on conviction to a fine and to imprisonment.

All statutory orders issued by the **BD** will be recorded on The Land Registry and will be rescinded upon compliance. Such records may impede transactions of the building concerned.

 **To understand common ‘statutory orders/notices’–Please refer to [Appendix I](#)**

Take Heed of Building Defects for Timely Rehabilitation

In the life cycle of a building from occupation to demolition, individual elements and facilities have individual needs for repair and maintenance to extend the life expectancy of the building.

 **For the building rehabilitation glossary–Please refer to [Appendix II](#)**

In general, one or more of the following may be found in the structures and their relevant facilities of a building in disrepair²:

- Defects on building structures and finishes, such as damaged concrete, spalled or loosened ceiling rendering, defective internal walls and exterior finishes/mosaic tiles;
- Defects on fire safety provision, such as damaged or removed fire doors, unauthorised ventilation openings on enclosed walls along exit stairways;
- Defects on building facilities and installations, such as defective water/power supply facilities, drainage system, fire service provisions, lifts and escalators;
- Defects on slopes and retaining walls, such as cracked protective surfaces and drainage pipes;
- Defects on windows, such as broken hinges and loosened anchors;
- Defects on objects attached to external walls³, such as rust or loosening; and
- Defects on waterproof works, such as defective water seepage and waterproof membrane at the rooftop.



To find out more common building defects, their general causes and solutions – Please refer to [Appendix III](#)

Benefits of Rehabilitation

Timely rehabilitation and proper management of buildings benefit owners, residents, neighbours and society as they:

- Improve the living environment;
- Minimise the possibility of being served with statutory orders/notices by relevant government departments;
- Avoid depreciation of the building caused by disrepair;
- Prolong the usable period of the building;
- Ease the urgency of demolition and reconstruction of the building;
- Alleviate rapid ageing of urban districts.

² Source: *Building Maintenance Toolkit* published by the **Independent Commission Against Corruption (ICAC)**.

³ Objects attached to external walls of buildings include but not limited to eaves, decorative linear reliefs, projections, architectural elements, air conditioners, canopies, balconies, clothes racks, projective panels and external protections etc.

1.1.2 Responsibilities in Building Rehabilitation and the Consequences of its Neglect

Owners' Responsibilities

While the majority of private property owners are aware that it is their responsibility to repair any defects found in their properties to ensure home and public safety, few of them realise that this responsibility extends beyond the flats they occupy to cover also the 'common parts' of the building shared among all owners. Failure to understand this or underestimate/neglect the consequences of disrepair may result in disagreement among owners at any stage of building rehabilitation from planning to implementation, leading to frequent misunderstandings and disputes that may impede or overwhelm the entire project.

Useful Tip

What are 'common parts' of a building?

Examples include the water supply system and water pipes of the building through which tap water runs, as well as the corridors, lifts and lobbies through which people traverse. These are some of the facilities used daily by owners without being aware of their status as 'common parts' of the building. Owners should refer to the 'Deed of Mutual Covenant' (DMC) and floor plans of the building they occupy for the 'common parts' covered therein.



A Guide on Building Management Ordinance (Cap. 344) by the Home Affairs Department



What is 'DMC'? – Please refer to [Section 1.2.2](#)

Consequences of Neglecting Building Defects

If an **owner** ignores defects of his building or refuses to comply with the 'statutory orders/notices' issued by relevant government departments, serious consequences may arise. When a building falls into disrepair, the living environment and hygiene are worsened, and along come safety threats. In extreme cases, structural defects may cause objects to fall off or, worse still, collapse of the building, resulting in life casualties and damage to property, to which claims may be made for compensation, followed possibly by criminal proceedings and other serious consequences.



Useful Tip

Third-party risks insurance

Pursuant to Section 28 of the *Building Management Ordinance*, all OCs shall procure and keep in force in relation to common parts of the building and the property of the OC a policy of third-party risks insurance. The minimum insured amount of each policy shall be \$10 million per event.

According to the Hong Kong Federation of Insurers, OCs purchasing third party risks insurance may be requested to provide information on the conditions of the building concerned, including the existence of unauthorised structures, and OC's intention to carry out building rehabilitation, for the insurance company to consider the underwriting of such policy.



To learn more about buying insurance policy for a building—Please refer to [Section 6.4](#)

1.1.3 Commence Preparation Tasks for Building Rehabilitation

Form a Building Rehabilitation Task Force

Owners looking to carry out building rehabilitation may form a 'building rehabilitation task force' to coordinate the preliminary tasks of the intended project, including collection of relevant information and communication with other owners to gauge their opinions on the project.

Prevailing laws in Hong Kong do not stipulate the formation of a 'building rehabilitation task force' among owners in the course of the project. For buildings where an **Owners' Corporation (OC)** has been formed, the *Building Management Ordinance* (Cap. 344 of the Legislation of Hong Kong) prescribes that all operations concerning the OC, including the planning and implementation of preliminary tasks for building rehabilitation, shall be handled by a **Management Committee (MC)**.



To learn more about the *Building Management Ordinance*—Please refer to [Section 1.2.1](#)

Consult DMC for Terms Concerning Building Management and Rehabilitation

For buildings without **OCs**, regardless of whether or not the **owners** have formed an **Owners' Committee** or have appointed a 'manager' (i.e. the property management company of the building in general circumstances) in accordance with provisions of the DMC, any and all tasks concerning building management and rehabilitation shall be planned and implemented in compliance with the terms prescribed therein.

Useful Tip

What is Owners' Committee ?

What is an owners' committee? An owners' committee means an owners' organization formed under and in accordance with the DMC. Its composition, operation details, duties and powers shall be such as the DMC may set out. An owners' committee is not a body corporate. Where an MC has been appointed and an OC formed in respect of a building, the members of the MC shall be deemed to be the owners' committee and shall have all the functions, powers and duties of the owners' committee under the DMC.



Home Affairs Department <A Guide On Building Management Ordinance (Cap.344)>



What is the difference between the Management Committee and the Owners' Committee? – Please refer to Section 1.2.3

Useful Tip

What is a ‘manager’?

Pursuant to Section 34D(1) of the *Building Management Ordinance*, a ‘manager’, in relation to a building, means the DMC manager or any other person who for the time being is, for the purposes of the DMC, managing the building (i.e. the ‘contract manager’).

There are two types of ‘managers’:

- (1) ‘DMC manager’ means the person who is specified in the DMC to manage the building. Generally speaking, the property developer will appoint a proxy (in the usual cases one of its affiliated companies) to manage the building as ‘DMC manager’ prior to the formation of an OC. In general, the management terms are stipulated in the DMC.
- (2) ‘Contract manager’ means any other person who for the time being is, for the purposes of the DMC, managing the building. It generally refers to the ‘manager’ appointed by owners on contract terms, i.e. the property management company entering the general business contract on the management of the building with the **owners/OCs**. In general, such a contract, in which details such as fees terms are usually specified, will only be signed when its decision has been resolved at an owners’ meeting.

Termination of manager’s appointment by OC

A DMC Manager or a contract manager whose contract contain no provision for the termination of his appointment, according to BMO, Paragraph 7 of Schedule 7, the OCs may by resolution passed at a general meeting of the OC, terminate by notice the DMC managers appointment without compensation

- passed by a majority of votes; and
- supported by the owners of not less than 50% of the shares in aggregate (who are entitled to vote. Only the owners of shares who are liable to pay the management expenses relating to those shares)

If the contract of a contract manager contains provisions for the termination of the appointment, the OC shall comply with the provisions thereof, instead of applying the above mechanism to terminate the appointment (e.g. a period of not less than 3 months’ notice as provided in the contract).



A Guide On Building Management Ordinance (Cap .344) published by Home Affairs Department



To know more about Duties, Roles and Services of Manager? Please refer to Section 1.2.6

The DMC is of utmost importance with regard to building management, through which the rights, interests and responsibilities of owners are defined along with regulations and guidelines on various building management issues. For buildings without OCs, if the provisions of its DMC on building management and rehabilitation are relatively comprehensive and concrete, the owners may, in compliance with such provisions, form an **Owners' Committee** or appoint a 'manager' and convene meetings to resolve on matters concerning the repair and maintenance of common areas, as well as the apportion of work costs, collection of funds and payment of fees, etc.

On account of the possible existence of oversimplified or ambiguous terms in many a version of DMC, if the following are not explicitly stipulated in the DMC:

- (1) that an owners' meeting has the right to resolve on the repair and maintenance of common areas of the building; and
- (2) that the resolution concerned is legally binding on all owners (including owners not attending the owners' meeting),

Then an unanimous agreement among all owners on the repair and maintenance of the common areas of the building must be reached for the resolution to be deemed valid.

Hence, owners should seek relevant legal advice in writing from a practising lawyer in Hong Kong before planning a building rehabilitation project, with a view to verifying the relevant requirements and procedures for convening owners' meetings; as well as the rights of such meetings to resolve on the repair and maintenance of common areas as accorded by the DMC, and that the resolution thus reached is legally binding on all owners.

Granted that it is time-consuming and unrealistic to have all owners coming together to discuss and agree on the repair and maintenance of common areas, or to open a bank account for fund collection, therefore owners should consider the most effective alternative, i.e. forming an OC, to handle all tasks related to building rehabilitation within the legal framework. In so doing, matters related to the intended rehabilitation project can be tabled for discussion in a speedier and more effective way without having to convene all owners.



To learn more about the DMC—Please refer to [Section 1.2.2](#)



Simulated Scenario

“Building A” over 30 years and with only 10 nos. of units. The Buildings Department has issued an order requiring all owners of the building to appoint qualified works consultant and contractor for carry out building rehabilitation works.

In the case that building without IO and the DMC also have not provisional for the repair and maintenance of the common areas of the building. All the decision must acquire the consent from all owners. Some owners have already immigrated or rented out their flats and are unable to contact. It is difficult to hold a general meeting of owners. As a result, the building rehabilitation works were not carried out and the owners were eventually prosecuted and fined by the Buildings Department.

Point to discuss:

It is not easy to get support from all the owners in the small scale buildings like the above-mentioned. Imagine that if the buildings in large scale and how can we pass the resolutions?

Why not consider setting up an OC to deal with building rehabilitation works under the framework of the law?



How to form an IO ? – Please refer to [Section 1.2](#)

Section 1.2 **Form an OC (applicable to Buildings without OCs)**

As mentioned previously, it is advisable for owners to form an **OC** and convene owners' meetings in compliance with relevant legal requirements and procedures, so that owners may plan and resolve on relevant milestones for building rehabilitation in a more effective manner.

Before forming an **OC** and planning for building rehabilitation, owners should grasp the relevant laws and documentation listed below.

1.2.1 ***Building Management Ordinance***⁴ (**Cap.344**)

Point to note

- The *Building Management Ordinance* (Cap. 344) was enacted to provide a legal framework for the formation of Owners' Corporations (OC) to facilitate effective building management. It also sets out the powers and duties of an OC.
- Mandatory Terms in Deeds of Mutual Covenant⁵, such as financial arrangement、procurement arrangement、Resignation of manager、Termination of manager's appointment by owners' corporation、Obligations after manager's appointment ends etc. owners' corporation and manger are responsible to comply with the Ordinance, the Deed of Mutual Covenant and the Code of Practice issued by the Secretary for Home Affairs under the Ordinance.
- Subject to section 29 of BMO, 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 and its meeting procedures so as to facilitate the day-to-day operation of the OC and compliance by owners.

⁴ *Building Management Ordinance (Cap.344)*, the Government will review the implementation of the Ordinance from time to time and make timely amendments to meet the needs of social development.

⁵ Schedule 7 of *Building Management Ordinance (Cap.344)*.

- For the organization of management committee and the procedures, 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 prevail⁶.

1.2.2 **Deed of Mutual Covenant (DMC)**⁷

A DMC is a private contractual agreement among all the co-owners, the manager and also the developer of a building. It defines the rights, interests and obligations of the parties concerned. In general, a DMC comes into effect on the date of execution by the developer and the purchaser of the first unit of the building and is binding on other subsequent purchasers. As with other private contracts, the terms of a DMC cannot be amended unilaterally without the consent of all parties to the contract.

A DMC is a very important document in the management of building. Not only does it specify the common parts of the building, the parts for the exclusive use of individual owners and the undivided shares of each flat, but it also sets out clearly the requirements and guidelines on various building management matters.

However, the terms of the Deed of Mutual Covenants are different. Owners should seek professional advice in advance on the terms of the DMC to ensure that the relevant terms of the Deed of Mutual Covenant are fully understood.

⁶ Paragraph 12 of Schedule 2 under *Building Management Ordinance (Cap.344)* 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. Owners should seek professional advice in advance if inconsistency between this Schedule and DMC on the other issues except the matters related organization of management committee and the procedures.

⁷ Refer to *A Guide on Building Management Ordinance (Cap.344)* published by Home Affairs Department.

 **Useful Tip****What is “Undivided shares” ?**

Ownership in a multi-storey building is generally expressed in terms of undivided shares. When an owner purchases a flat in a multi-storey building, he is not only entitled to the exclusive possession of his flat, but also jointly owns the common parts of the building with other owners of the same building. As the common parts are co-owned by all owners, the shares of the building are undivided. The undivided shares of each flat are set out clearly in the deed of mutual covenant (DMC) of the building. Under most circumstances, the maintenance and management fees as well as the voting right of owners at a meeting of owners are determined on the basis of the undivided shares owned by him.



A Guide on Building Management Ordinance (Cap.344) published by Home Affairs Department

 **Useful Tip**

Owners may first check the sale and purchase documents for a copy of the DMC. Alternatively, **owners** may also purchase a hard copy of the DMC at the **Land Registry** in person or through its online ordering service at <http://www.iris.gov.hk>.

1. 2. 3 **Purpose and Benefits of Forming an OC**


To Fulfil Owners’ Responsibility for Building Management and Maintenance

A private property is an important asset of its **owner**, who is indisputably responsible to the maintenance, management and rehabilitation of the building. Proper and effective building management, coupled with timely repair and maintenance, not only offers **owners** a quality, comfortable and safe living environment, it also prevents depreciation caused by poor management or disrepair. To protect their own interest, **owners** should participate actively in building management operations, including management routines and rehabilitation of the building, in particular preventive maintenance.

To Exercise Legal Authority of the OC with regard to Building Management

The most feasible way to effective and proper management of common areas of a building is to form an **OC**, which is an independent corporation formed under the *Building Management Ordinance*⁸ to manage the common parts of a building on behalf of all owners while exercising and performing the rights, authority, privileges and duties of the owners under the *Ordinance*. An **OC** also has the right to engage and supervise property management companies, security companies/security guards and cleaning service companies/cleaners. To handle building management tasks in a swift and proper manner, a large part of the operation of the **OC** is delegated to an **MC**⁹.

To Engage Owners in Building Management and Maintenance Routines

An **OC** formed under the *Building Management Ordinance* is a corporation/legal entity representing all owners, which provides an effective platform for owners to manage common parts of the building and handle building rehabilitation effectively. By stipulating integrity requirements and codes of conduct  ([Template 1](#)), coupled with fair, just and open procurement/tender solicitation and transparent meeting and voting procedures, the **OC** helps ensure the proper execution and completion of building rehabilitation.

 **To learn more about integrity management and declaration of interests– Please refer to [Appendix IV](#)**

⁸ Pursuant to Section 14(1) of the *Building Management Ordinance* (Cap. 344), at a meeting of an **OC** 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 **MC** and all the owners.

⁹ Section 29, *Building Management Ordinance* (Cap. 344).



Useful Tip

Is it mandatory to form an OC for a building?

Currently there is no legal obligation for the owners of a building to form an **OC**. While tasks concerning building management and maintenance can be handled without an **OC**, it is more effective to do otherwise as the management of the building will then be subject to the *Building Management Ordinance* under an **OC**.



How to handle building maintenance without OCs? – Please refer to [Section 1.1.3](#)



Useful Tip

The Differences between Management Committee and Owners' Committee

	Management Committee (MC)	Owners' Committee
Basis of Appointment/Formation	Section 3, 3A or 4 of the <i>Building Management Ordinance</i>	Pursuant to and in accordance with the DMC (as stated in Section 34D of the <i>Building Management Ordinance</i>)
Duties	To manage common parts of the building on behalf of all owners .	To verify DMC managers' compliance with DMC terms in managing the building and to offer DMC managers advice on building management based on the relevant terms in the DMC

1. 2. 4 The methods and procedure of forming an OC





Owners may, in accordance with section 3, 3A or 4 of the BMO, convene a meeting of owners to appoint an MC and form an OC. However, they still have to refer to the DMC to ascertain the owners' votes at a meeting of owners. Unless the DMC otherwise provides, an owner shall have one vote in respect of each share he owns. A vote may be cast either personally or by proxy.

- In most circumstances, owners would appoint an MC and form an OC under section 3 of the BMO (an owner appointed by the owners of not less than 5% of the shares in aggregate). The newly-appointed MC shall within 28 days after its appointment make an application to the Land Registrar for the registration of the owners as a corporation.



Useful Tip

Procedures of forming an Owners' Corporation (under section 3 of the BMO) :

1. appointment of one owner by owners of not less than 5% of the shares in aggregate to convene a meeting of owners ;
2. The convenor should ascertain the number of shares and voting rights of each flat by making reference to the clauses in the DMC of the building ;
3. The convenor should check the land register to ascertain the name of each owner. ;
4. The convenor has to make sure that the notice of meeting of owners is delivered to all the owners, the DMC manager and the person authorized by the DMC (if any) at least 14 days before the date of the meeting and the date, time and place of the meeting as well as the agenda of meeting are clearly specified in the notice of meeting of owners  ([Sample 2](#)) ;
5. The convenor collect  ([Sample 3](#)) and to determine the validity of the instruments of proxy  ([Sample 4](#)) and consolidate the list of proxy ( ([Sample 5](#))) ;
6. The convenor holding a meeting of owners for forming of MC and appointment of members of MC ;
7. Applying to the Land Registrar for registration of owners as a corporation.



[How to form an Owners' Corporation published by Home Affairs Department](#)

- Where owners cannot appoint an MC and form an OC under section 3 of the BMO, you can seek the assistance from Home Affairs Department and consider to form an Owner's Corporation under section 3A or 4¹⁰. Should owners have any question, they may refer to the relevant provisions in the BMO or contact the District Building Management Liaison Team (DBMLT) of the relevant District Office (DO) or seek legal advice.

¹⁰ Please refer to Section 3A or 4 under *Building Management Ordinance* for the details or maybe refer to *How to form an Owner's Corporation* published by Home Affairs Department to understand the details.



Useful Tip

Owners with the intention to carry out building rehabilitation and form an **OC** can apply for relevant subsidy schemes offered under the Urban Renewal Authority (**URA**). For details, please refer to ‘Building Rehab Platform’ website administered by the URA ([http:// www.brplatform.org.hk](http://www.brplatform.org.hk)).

- MC was appointed under section 3, 3A or 4, the members of MC must be an owner¹¹. The MC should have Chairman, Vice-Chairman (subject to the passage of the resolution on the establishment of the office), secretary and treasurer. The numbers of the members of MC are listed as below:^{12, 13, 14} :

No. of units	No. of members
Not more than 50	Not less than 3
More than 50 but not more than 100	Not less than 7
More than 100	Not less than 9

- Day-to-day business of an OC is mostly handled by an MC. Subject to the BMO, the powers¹⁵ and duties conferred or imposed by the BMO on the OC shall be exercised and performed on behalf of the OC by the MC.

¹¹ Except the Tenants’ representative under section 15 under BMO (Cap.344).

¹² Paragraph 1 (1) of Schedule 2 under BMO (Cap.344).


¹³ Under Paragraph 2 (2) of Schedule 2 and section 15 under BMO (Cap.344), 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. The tenants’ representative appointed under section 15(1) shall be deemed to be appointed by the owners as a member of the management committee.

¹⁴ It is recommended to follow the “A Revised Administrative Guidelines on Best Practices on Building Management” issued by the Home Affairs Department on January 1, 2019. For details, please visit the following website.
https://www.buildingmgmt.gov.hk/pdf/Admin_Guidelines_2019_Chi.pdf.

¹⁵ According to Part IV of BMO, Powers of corporation generally - 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.

1. 2. 5 **Duties and Roles of OCs, MCs and owners**¹⁶

Every building owner is a stakeholder of building affairs and has the right to express views and voting for their decisions. Therefore, owners also takes up due responsibility at the same time. Owners not only responsible for their own property but also the common parts of the building. And ensure that the overall condition of the building is in good condition and to pay the maintenance costs to be shared in accordance with the terms of the Deed of Mutual Covenant.

 **Wanted to know more about the Duties and Roles of Owner's Corporation, MC and owners ? – Please refer to [Appendix V](#)**

1. 2. 6 **Duties, Roles and Services of ‘Manager’**

The management routines of a building, by definition involving a lot of miscellaneous tasks, is often outsourced to a ‘manager’ (i.e. property management company), who may also be responsible for organising and handling tasks arisen from building rehabilitation, which is an integral part of building management.

Duties of ‘Manager’

Generally speaking, **owners/OCs** may engage a ‘DMC manager’ or a ‘contract manager’ to perform daily building management duties. This ‘manager’ can:

- Assign his subordinates or appoint a service provider to provide building management services (common examples include cleaning and security services); or
- Assist in the selection of service providers (e.g. cleaning and security service contractors) and monitor their performance with **OC’s** authorisation.

¹⁶ To know more details about Duties and Roles of Owner’s Corporation, MC and owners, please refer to the Guide on Building Management Ordinance published by Home Affairs Department.

Useful Tip

How to monitor the performance of a ‘manager’?

The **owners/OCs** should:

- Verify the compliance of the ‘manager’ with requirements on the procurement, funding and supervision of service providers;
- Conduct sampling to identify any significant differences between the cost of goods and services procured by the ‘manager’ and market prices;
- Make regular comparisons between the ledgers and the approved budget (e.g. monthly/quarterly) and ask the ‘manager’ for an explanation over significant discrepancy spotted; and
- Lay down service appraisal criteria to assess the performance of the ‘manager’ at the end of the contract terms.



Building Management Toolkit published by the ICAC

Major Roles of ‘Manager’

- To act in the interest of the **owners/OCs**;
- To offer **owners/OCs** professional advice on building management;
- To comply with provisions of the *Building Management Ordinance/DMC* when performing building management duties, particularly the procurement, finance and arrangement of **owners/OCs’** meetings; and
- To offer **owners/OCs** advices, out of his familiarity with provisions of the *Building Management Ordinance* and the DMC, to ensure compliance with and proper fulfilment of the stipulated requirements (e.g. proper management and maintenance of the common parts and facilities of the building).

To protect the interest of the **owners/OCs**, the ‘manager’ should:

- Declare his relationship with bidders and any conflicts of interest;
- Sign the ‘Confirmation Letter to Comply with Probity and Anti-Collusion Clauses’ and ‘Declaration Form to Comply with the Ethical Commitments Requirements’; and
- Sign the ‘Non-Collusion Clauses and Non-Collusive Tendering Certificate’ prepared by the **Competition Commission**.

Services provided by ‘Manager’ Concerning Building Rehabilitation –
Please refer to [Appendix VI](#) 

- Assign his subordinates to provide additional management services relevant to building rehabilitation;
- Provide **owners/OCs** with professional advices on the recruitment and selection of works consultant, work contractors and other related service providers (e.g. legal advisor/work supervisor), and monitor the procurement and appointment procedures of the aforementioned items;
- Liaise, communicate and coordinate between **owners/OCs** and the works consultant, work contractors and other related service providers.

 **Useful Tip**

How can “managers” assist owners/OCs in monitoring service providers?

"Manager" can: :

- Monitor the performance of the service providers employed by the **owners/ OCs**, especially on the manpower and other resources which stated in contract;
- Report to the **owner/OCs** of any failure to meet the standard and violate the service commitments, and to take the corresponding actions;
- To provide the channels for **owners/ OCs** for the further enquiry and complaint on the service providers (e.g. telephone hotline);
- Report serious complaints about service providers in the meeting;
- Provide the owner/corporation with the proper procedures and systems for processing and validating works payment.



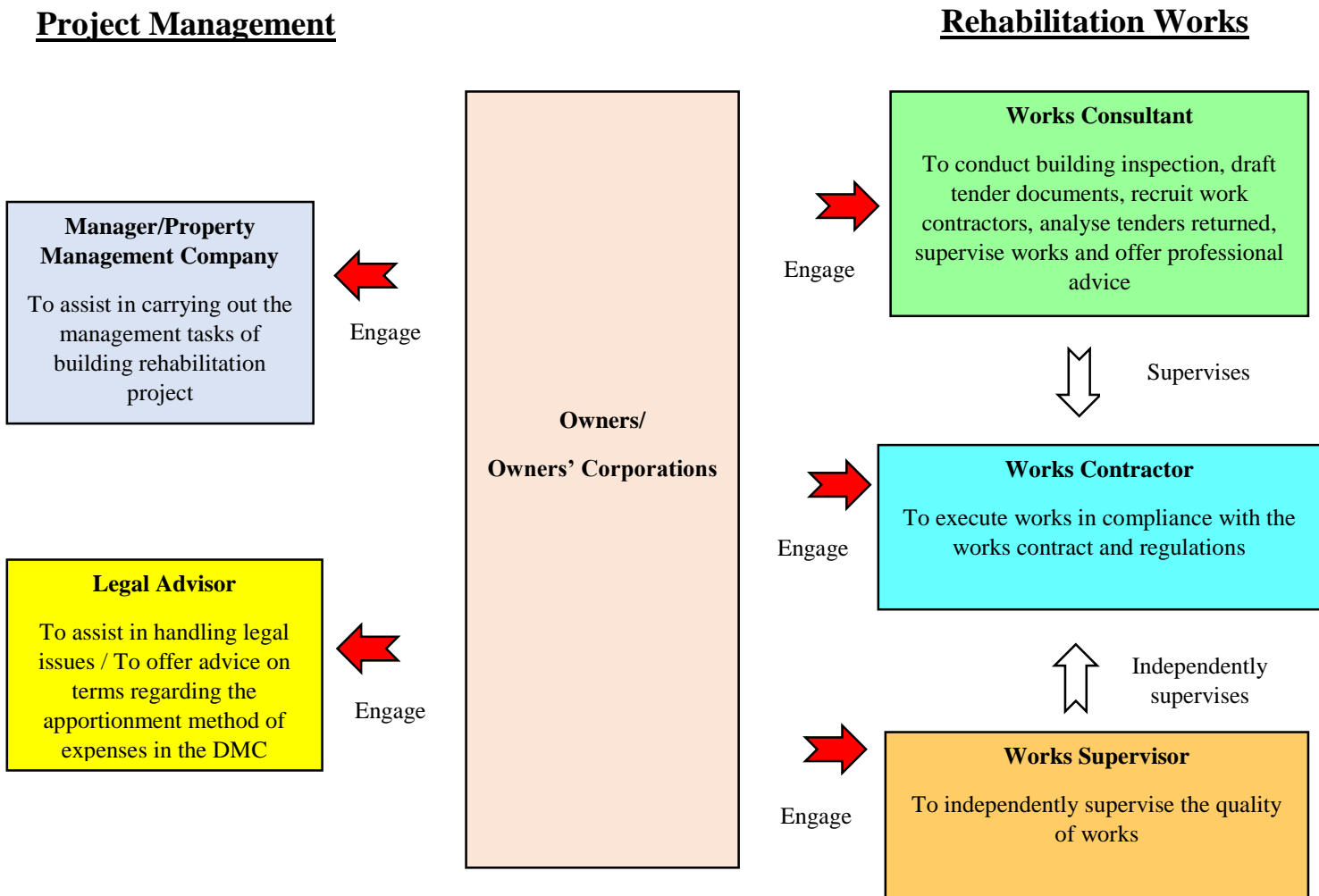
Building Management Toolkit published by ICAC

 **Useful Tip**

For buildings without **OCs**, the ‘**manager**’ may assist in handling building maintenance in accordance with relevant DMC terms. However, **owners** are advised to consult legal professionals if such terms are ambiguous.

1. 2. 7 Organisational Structure of Building Rehabilitation Project Management

The general organisational structure is as follows:



Useful Tip

To handle management and maintenance tasks or engage necessary service providers for buildings without **OCs**, all **owners**/the 'manager' may need to assume the aforesaid roles of the **OC** and, subject to provisions of the DMC, convene owners' meetings to discuss and resolve on such matters with a unanimous vote. Owners are advised to consult practising lawyers for legal advice in writing.

Section 1.3 Convene Owners' Meetings about the Rehabilitation Project

1.3.1 Procedures and Rules of different Meetings (Applicable to buildings with OCs)¹⁷

It is common to convene an MC meeting or Owners' meeting for discussion of the matters which related to building management and building rehabilitation. For example:

- Explain why we need building rehabilitation;
- Discuss and resolve building rehabilitation projects;
- Discuss and resolve applications for subsidies schemes of URA or other departments/institutions;
- Discuss and resolve the works items;
- Discuss and resolve the appointment of works consultant;
- Discuss and resolve the appointment of works contractor.

Convening an MC meeting¹⁸

(i) How often for MC meeting

- at least once in every period of 3 months.
- shall be convened any time by the MC Chairman
- shall be convened by the MC secretary, at the request of any 2 MC members
 - within 14 days of receiving such request and held within 21 days of receiving such request.

(ii) Notice of meeting

- The MC secretary, at least 7 days before the date of the MC meeting and give notice of the meeting to each MC members and (if the treasurer is not a member of the MC) the MC treasurer; and display the notice of meeting in a prominent place in the building.
- **The notice of meeting may be :**
 - Delivered personally to the addressee ; or
 - Sent by post to the addressee at his last known address ; or
 - Left at the flat of the addressee or deposited in the letter box for that flat.

¹⁷ It is recommended to follow the "A Revised Administrative Guidelines on Best Practices on Building Management" issued by the Home Affairs Department on January 1, 2019. For details, please visit the following website.
https://www.buildingmgt.gov.hk/pdf/Admin_Guidelines_2019_Chi.pdf.

¹⁸ Schedule 2 in BMO.

- The notice of meeting shall specify :
 - The date, time and place of the meeting ; and
 - The resolutions that are to be proposed at the meeting.

(iii) Quorum

- 50% of the members of the MC (rounded up to the nearest whole number) or 3 such members, whichever is the greater.

(iv) Voting at a meeting

- All matters raised in an MC meeting may be decided by a resolution passed by a majority of the votes of the MC members present at the meeting.
- If there is an equality of votes, the person presiding over the meeting shall have, in addition to a deliberative vote, a casting vote.
- Subject to the BMO, the procedure at MC meeting shall be determined by the MC.

(v) Minutes of meeting

- The MC secretary shall display the certified minutes in a prominent place in the building within 28 days from the date of the MC meeting for 7 consecutive days. The MC shall keep the certified minutes for such period, being not less than 6 years, as the OC may determine.

General Meetings of the Owners' Corporation¹⁹

(i) How often for General Meetings

- the MC shall convene the first annual general meeting of the OC not later than 15 months after the date of the registration of the OC.
- thereafter, the MC shall convene an annual general meeting within 12 to 15 months after the date of the previous annual general meeting.
- The MC shall convene a general meeting of the OC at any time for such purposes as it thinks fit.
- The MC Chairman shall convene a general meeting of the OC 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.

¹⁹ Schedule 3 of BMO.

(ii) Notice of meeting

The MC secretary shall, at least 14 days before the date of the general meeting of the OC ,

- Give notice of the meeting to each owner and the tenants' representative (if any)
- The 14-day notification period includes the day of issue of the notice of meeting, but excludes the day of the meeting. Public holidays, Saturdays and Sundays are included.
- The notice of meeting given by the MC secretary may be :
 - Delivered personally to the addressee ; or
 - Sent by post to the addressee at his last known address ; or
 - Left at the flat of the addressee or deposited in the letter box for that flat.
- The notice of meeting shall specify :
 - The date, time and place of the meeting ; and
 - The resolutions that are to be proposed at the meeting.
- It should be noted that no resolution passed at any general meeting of the OC shall have effect unless the same was set forth in the notice of meeting or is ancillary or incidental to a resolution or other matter so set forth.

(iii) Quorum

Normally 10% of the owners.



Useful Tip

How to count the number of owners of general meeting of OC? (Schedule 11 of BMO)

Form	Illustration	To be counted as
Multiple ownership of 1 flat	1 flat with 3 co-owners	1 owner
1 owner owning a number of flats	1 owner owning 35 flats	1 owner
Person holding proxy	1 person holding a proxy from 1 owner	1 owner
	1 person holding a proxy from another owner	2 owners
	1 person holding a proxy from 100 owners	100 owners
	35 persons holding a proxies from 100 owners in aggregate	100 owners



A Guide on Building Management Ordinance (Cap.344) published by Home Affairs Department

(iv) Voting at the meeting

- An owner shall, unless the DMC provides otherwise, have one vote in respect of each share he owns.
- All matters arising at a meeting of the OC shall be decided by a majority of the votes of the owners voting either personally or by proxy.
- In determining whether a resolution is passed by a majority of the votes of owners, the following shall be disregarded:
 - owners who are not present at the meeting;
 - owners who are present at the meeting but do not vote;
 - blank or invalid
 - abstentions

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


Useful Tip



Present at the meeting and vote personally

Under the circumstances, the owners should attend the meeting in person and try to avoid the appointment of proxy. The owners shall understand the reasons, process, arrangement and progress of the building rehabilitation. Owners also can clarify the rehabilitation matters with the management committee, works consultant and works contractor directly in the meeting in order to make the good reference before voting.

If the owners are unable to attend the owners' meeting, they should consider appointing an appropriate or trusted representative. They may also consider confirming any voting intentions and to avoid giving proxy to someone causally.

(v) Appointment of proxy

- A general meeting of the OC, an owner may cast a vote personally or by proxy. A proxy appointed by an owner shall, for the purposes of the meeting, be treated as being the owner present at the meeting.
- The instrument appointing a proxy shall be in the statutory form set out in Form 2 in Schedule 1A to the BMO  ([Sample 6](#)) , the proxy form may be attached to the notice of meeting of be available at the management office for use by owners.
- The instrument of proxy shall be lodged with the MC secretary at least 48 hours before the time for the holding of the meeting.

- Upon receipt of the instrument of proxy, the MC secretary shall :
 - issue a receipt  ([Sample 7](#)) to all the owners²⁰ who have lodged the instruments of proxy to acknowledge receipt of the instrument before the time for the holding of the meeting. The receipt may be left at the flat of the owner or deposited in the letter box for that flat.
 - prepare a list  ([Sample 8](#)) setting out the information of all the flats with instruments of proxy lodged. The list shall be displayed in a prominent place at the place of the meeting before the time for the holding of the meeting and shall remain so displayed until the conclusion of the meeting.
 - The MC Chairman (or if he is absent, the person who presides at the meeting shall determine the validity of the instrument of proxy received in accordance with the requirements under the BMO²¹.
 - The MC shall keep all instrument of proxy that have been lodged with the MC secretary for a period of at least 12 months after the conclusion of meeting²².



Useful Tip

What are the requirements for an instrument of proxy to be valid :

- ✓ The instrument shall be in the form set out in Form 2 in Schedule 1A ;
- ✓ It shall be signed by the owner, or if the owner is a body corporate (e.g. a company or a society etc.), shall be impressed with the seal or chop of the body corporate and signed by a person authorized by the body corporate for the purposes of the general meeting: and
- ✓ It shall be lodged with the secretary of the management committee at least 48 hours before the time for the holding of the meeting.

²⁰ Paragraph 4(5)(a) of Schedule 3 in BMO. The receipt is only for confirming the proxy lodged but not the validity.

²¹ Paragraph 4(5)(b) of Schedule 3 in BMO.

²² Paragraph 4(6) of Schedule 3 in BMO.



Useful Tip

Prepare the list for proxy

MC secretary shall setting out the information of all the flats with instruments of proxy lodged. The list shall be displayed in a prominent place at the place of the meeting before the time for the holding of the meeting and shall remain so displayed until the conclusion of the meeting.

However, for the best practice , MC secretary shall consider to display in a prominent place at the place of the meeting at least 24 hours before the time for the holding of the meeting in order to avoid any argument.



Useful Tip

How to certain proxy instruments are valid ?

- MC secretary shall issue receipt for all the proxy instruments lodged with him and display the information of the flats of those owners who have made the instruments, regardless of the validity of the instruments.
- Chairman should determine the validity of the proxy instruments in strict accordance with the requirements specified in the BMO. It may not be necessary for the convenor to check up the signature of every single owner or the constitution of the body corporate. If the convenor has no reason to believe that the proxy instrument is not in order (for example, no enquiries received on its validity, no suspicious element on the proxy instrument, etc.) or has no reason to suspect that there is a motive for forgery, then it is acceptable for him, as a reasonable man, to consider that the proxy instrument is valid.
- However, if Chairman has determined that certain proxy instruments are invalid, it would be advisable for him to inform those owners concerned so that they may consider attending the meeting themselves. (recommended to re-submit the proxy if needed)
- MC secretary may also indicate on the list displayed at the place of the meeting which flat has lodged an invalid proxy instrument when preparing the list.
- Although the BMO requires the proxy to be sent to the secretary at least 48 hours before the meeting, the owner should send the proxy to the secretary earlier. The secretary should issue a receipt as soon as possible after receiving the proxy. The arrangement will allow the owners to know whether the OC has received the proxy (if the owners receive the receipt without submitting of any proxy, they will have sufficient time for further clarification).



**Frequently Asked Questions on *Building Management Ordinance (Cap. 344)*
published by Home Affairs Department**



Useful Tip

What should owners do if they suspect there are forged proxy instruments ?

Owners should inform the convenor of the meeting of owners or the MC chairman (or if he is absent, the person presiding over the meeting) if they suspect there are forged proxy instruments. Aggrieved owners may also seek a ruling from the court on the validity of the proxy instruments or the validity of the resolutions passed at the meeting.

According to section 36 of the Building Management Ordinance, the submission of a false proxy is a criminal offence.



**Frequently Asked Questions on *Building Management Ordinance (Cap. 344)*
published by Home Affairs Department**

(vi) Minutes of meeting

- Minutes shall be finished within reasonable time
- The minutes shall be prepared by the secretary and signed by the Chairman or a nominated member and shall be confirmed at a subsequent MC meeting.
- The certified minutes shall be displayed in a prominent place in the building within 28 days of the date of the general meeting for 7 consecutive days.

Emergence general meeting for filling vacancies under special circumstances

Where the number of vacancies in the offices of MC members is more than 50% of the number of MC members as decided by owners at the general meeting of the OC, the MC chairman may convene a general meeting of the OC for the purpose of filling the vacancies in the MC. It should be noted that such a general meeting of the OC may only be convened for the sole purpose of filling the vacancies in the MC. At the general meeting, resolutions that are not related to filling the vacancies cannot be passed.



Useful Tip

Best Practice on Building Management

The *Administrative Guidelines on Best Practices on Building Management* was published by the **Home Affairs Department** on 1st January 2019, featuring best practices on building management in various fields, including the formation of **OC**, procurement procedures, owners' meetings and the use of proxy instruments and financial arrangement, etc.

For more information, please visit the following website

https://www.buildingmgt.gov.hk/pdf/Admin_Guidelines_2019_Eng.pdf.

References

1. A Guide on *Building Management Ordinance* (Cap.344) published by Home Affairs Department
2. How to form an Owners' Corporation published by Home Affairs Department
3. Frequently Asked Questions on *Building Management Ordinance* (Cap. 344) published by Home Affairs Department
4. Building Maintenance Toolkit published by ICAC
5. Building Management Toolkit published by ICAC
6. Building Maintenance Guidebook published by Buildings Department
7. Smart Tender DIY toolkit published by URA

Appendix – Relevant Information

Step 1

Appendix I – Type of Statutory Orders/ notices

Appendix II – Building Rehabilitation Glossary

Appendix III – Common Building Defects, Their General Causes and Solutions

Appendix IV – Integrity Management and Guidelines for Managing Conflict of Interest

Appendix V – Duties and Rights of OCs, MCs and Owners

Appendix VI – Management Services Provided by the Manager (Building Rehabilitation)

Type of Statutory Orders/ notices

The common statutory orders/notices are listed below for reference and are not exhaustive. As the legal requirements may be modified over time, owners should consult relevant departments or professionals, or refer to the relevant department's website or related guidelines for the latest legal requirements and procedures.

Buildings Department - Buildings Ordinance (Chapter 123)

The building works in private buildings come within the purview of the Buildings Ordinance (Cap 123) (BO). It ensures that safety and health standards are maintained in the design, construction, use and maintenance of buildings, and that regular inspections of buildings and repairs to prevent the buildings from becoming unsafe are provided. The statutory orders/notices issued by the Buildings Department on building repair and maintenance are mainly divided into the following six categories :

Statutory Orders/ notices	Relevant information
<p>(a) Investigation Order under Section 26A or 28 of BO</p> <p>(Building or Drainage Works)</p>	<ul style="list-style-type: none"> • BD may issue an Investigation Order requiring the appointment of an Authorized Person (AP) to carry out an investigation on the structural conditions and defects of a building or its drainage system. • The AP employed is required to submit to BD an assessment report on the conditions of the building. The AP may include in the report the necessary repair works for the approval of the Building Authority. • If the proposed repair works are approved, BD may instruct the execution of the works through an order served on the owner.
<p>(b) Repair Order under Section 26 or 28 of BO</p> <p>(Building or Drainage Works)</p>	<ul style="list-style-type: none"> • BD may issue a Repair Order that requires the appointment of an AP to coordinate and supervise the repair of building and/or drainage system (usually required in large scale repair). • Owners should appoint Prescribed Registered Contractors to carry out the remedial works. • The owners or AP should report the completion of repair works to BD for arranging a compliance inspection and subsequent issuance of compliance letter

Buildings Department - Buildings Ordinance (Chapter 123) (Cont'd)

Statutory Orders/ notices	Relevant information
<p>(c) Investigation and Repair Order under Section 27A of BO (Dangerous Hillside)</p>	<ul style="list-style-type: none"> • BD may issue an order requiring an investigation on the safety of a slope that forms a part of a private development. Subject to the requirements specified on the order, an AP, a Registered Structural Engineer (RSE) or a Registered Geotechnical Engineer (RGE) or a combination of them should be appointed to carry out the investigation. • After the investigation, the AP/RSE/RGE should submit remedial proposals for the approval of the Building Authority. • Based on the advice from the AP/RSE/RGE, a registered specialist contractor in the site formation works category or other appropriate categories should be appointed to carry out the remedial works under the supervision of the AP/RSE/ RGE. • Upon completion of the remedial works, the AP/RSE/RGE should report the completion of remedial works to BD.

Buildings Department - Buildings Ordinance (Chapter 123) (Cont'd)

Statutory Orders/ notices	Relevant information
<p>(d) Removal Order under Section 24 of BO (Unauthorized Building Works)</p>	<ul style="list-style-type: none"> • BD may issue an order requiring the demolition, removal or alteration of Unauthorised Building Works (UBW), which have been or are being carried out without the prior approval and consent of the Building Authority or in contravention of any of the provisions of BO. • In order that the required removal works can be carried out safely, BD may require owners to employ a Prescribed Registered Contractor. • If the removal and reinstatement works are substantial or involve structural works, BD may require owners to engage an AP to prepare remedial proposals and supervise the works. Prescribed Registered Contractors should also be engaged to execute the works under the supervision of the AP • After completion of the removal and reinstatement works, owners should ensure that the AP has reported to BD for arranging a compliance inspection. BD will issue a compliance letter to the owners concerned if the removal works are carried out satisfactorily

Buildings Department - Buildings Ordinance (Chapter 123) (Cont'd)

Statutory Orders/ notices	Relevant information
<p>(e) Inspection and Repair Notice under Section 30B of BO (i.e. Mandatory Building Inspection Scheme)</p>	<ul style="list-style-type: none"> • BD may issue statutory notices to owners of a building aged 30 years or above requiring a prescribed inspection and, if necessary, prescribed repair in respect of the common parts, external walls and projections or signboards of the building to be carried out within a specified time. • Owners served with the notice shall appoint a Registered Inspector (RI) to carry out the prescribed inspection within a specified time. • The appointed RI shall carry out the prescribed inspection personally to ascertain whether the building concerned has been rendered dangerous or are liable to become dangerous. • Where the RI considers that prescribed repairs are required, the owners shall appoint a Registered Contractor to carry out the prescribed repairs under the supervision of the RI, who may be the same as or different from the RI responsible for the prescribed inspection, as the owners may decide. • Upon completion of the prescribed inspection and prescribed repairs, the RI so appointed shall submit an inspection report and a completion report respectively, together with a certificate in the specified form, to BD for record and audit check.

Buildings Department - Buildings Ordinance (Chapter 123) (Cont'd)

Statutory Orders/ notices	Relevant information
<p>(f) Inspection and Repair Notice under Section 30C of BO (i.e. Mandatory Window Inspection Scheme)</p>	<ul style="list-style-type: none"> • BD may issue a notice to any owner of a building aged 10 years or above requiring a prescribed inspection and, if necessary, prescribed repair in respect of the windows in the building to be carried out within a specified time. • Owners served with the notice shall appoint a Qualified Person (QP) to carry out the prescribed inspection required within a specified time. • The appointed QP shall carry out the prescribed inspection personally to ascertain whether the windows have been rendered dangerous or are liable to become dangerous. • Where the QP considers that prescribed repairs are required, the owners shall appoint a Prescribed Registered Contractor to carry out the prescribed repairs under the supervision of a QP, who may be the same as or different from the QP responsible for the prescribed inspection, as the owners may decide. If the QP appointed for carrying out the inspection is a Prescribed Registered Contractor, the QP may also act as the contractor to carry out the prescribed repairs. • Upon completion of the prescribed inspection and prescribed repairs, the QP so appointed shall submit an inspection report and a completion report respectively, together with a certificate in the specified form, to BD for record and audit check.

Fire Safety Department 、 Buildings Department -Fire Safety (Buildings) Ordinance (Cap 572)

For better protection to the users, owners/occupiers of commercial buildings/ premises as well as composite and domestic buildings are required, under the Fire Safety (Commercial Premises) Ordinance (FS(CP)O) and Fire Safety (Buildings) Ordinance (FS(B)O) respectively, to improve the fire services installation and equipment as well as fire safety constructions, such as fire resistant doors, in their buildings with reference to the stipulated standards.

Enforcement Authorities

Fire Safety Department - fire services installation and equipment of buildings

Buildings Department - fire safety constructions and fire safety measures

Upon inspection of the premises or buildings, the Director of Fire Services and the Director of Buildings will issue fire safety instructions to the owners/occupiers of the building as necessary to specify the necessary improvement works, including:

Statutory Orders/ notices	Relevant information
Fire Safety Directions	<p>(a) Improvement works</p> <ul style="list-style-type: none"> ● Fire Service Installations & Equipment under the jurisdiction of the Director of Fire Services <ul style="list-style-type: none"> – Automatic sprinkler system – Fire hydrant and hose reel system – Manual fire alarm – Emergency lighting – Automatic cut-off device for mechanical ventilation system – Portable fire extinguisher ● Fire Safety Construction Requirements under the jurisdiction of the Director of Buildings <ul style="list-style-type: none"> – Provision of adequate fire escape routes – Provision of adequate protection for fire escape routes and the integrity of structures against fire, and for inhibition of spreading of fire – Provision of adequate means of access for fire fighting and rescue

Fire Safety (Buildings) Ordinance (Cap 572) (Cont'd)

Statutory Orders/ notices	Relevant information
Fire Safety Directions	<p>(b) How to comply</p> <p>Fire Service Installation and Equipment under the Jurisdiction of Director of Fire Services</p> <ul style="list-style-type: none"> • OCs/owners should follow the directives in the statutory directions and engage a works consultant or an AP (if considered necessary) for the follow up procedures. The explanatory notes attached to the directions provide useful advice on compliance. • Registered Fire Service Installation (FSI) Contractors should be appointed to carry out the improvement works relating to fire service installations. • If the work involves a change of the FSI layout or location of the fixed equipment, the FSI Contractor should submit FSI drawings to the Director of Fire Services for approval. • Upon completion of the improvement works, the FSI Contractor should issue a Certificate of Fire Service Installations and Equipment (FS 251) to the OCs/ owners with a copy to the Director of Fire Services for arrangement of a compliance inspection. • OCs/owners should ensure compliance with the expiry date specified in the directions. <p>Remarks* :</p> <p>Registered FSI Contractors are divided into 3 classes for different types of installation work. A list of Registered FSI Contractors is available for reference at the Fire Safety Command Headquarters, Licensing and Certification Command Headquarters, fire stations and fire protection regional offices. The list is also available at the FSD website http://www.hkfsd.gov.hk/chi/cert.html)</p>

Fire Safety (Buildings) Ordinance (Cap 572) (Cont'd)

Statutory Orders/ notices

Relevant information

Fire Safety Directions

(b) How to comply (Cont'd)

Fire Safety Construction Requirements under the Jurisdiction of Director of Buildings

- OCs/owners should follow the directives in the statutory directions and appoint an AP as the project coordinator for the follow up procedures. The explanatory notes attached to the directions provide useful advice on compliance.
- If the building works for compliance affect the structure of the building (such as addition of sprinkler water tanks / pump houses or alteration of staircases), an AP/RSE must be engaged to submit building plans for approval and supervise the works to be carried out by a Prescribed Registered Contractor. Prior consent from the Building Authority must be obtained before the commencement of works.
- OCs/owners should observe the deadline for compliance as specified in the directions.
- For improvement items that require provision of certified fire resistant materials such as doors, staircase windows, and enclosure of services in staircase, test reports/certificates issued by accredited laboratories (under the Hong Kong Laboratory Accreditation Scheme) and suppliers' certificates should be produced. The AP acting in the interest of the OCs/owners/occupiers should ensure that the material installed and installation method match the specification as stated in the reports/certificates.
- Should OCs/owners of target buildings or premises under the FS(CP) O and FS(B)O plan to embark on building maintenance works and wish to carry out the improvement works in one go before receipt of the directions, it is advisable for them to approach FSD and BD.

Remarks* :

The Hong Kong Laboratory Accreditation Scheme (HOKLAS) is an accreditation scheme administered by the Hong Kong Accreditation Service (HKAS). The plan is a voluntary participation, any Hong Kong laboratory, proficiency testing provider and reference material that is subject to objective testing and calibration within the scope of the program, providing proficiency testing and production of reference material work, and achieving the competency criteria of the laboratory accredited program for producers to participate.

Water Supplies Department-Section 16 of Waterworks Ordinance (Cap 102)

Statutory Orders/ notices	Relevant information
Notices	<p>Notices may be served to registered consumers of inside services or fire services or to agents of communal services under Section 16 of Waterworks Ordinance (Cap 102) in the following situations:</p> <ul style="list-style-type: none"> • unauthorized alteration of waterworks; • waste or pollution of a supply or there being such a risk; or • non-compliance of inside services or fire services under the provisions of the Waterworks Ordinance.

Environmental Protection Department (EPD)-

Section 3 of Water Pollution Control (Sewerage) Regulation (Cap 358AL)

Section 10 of Air Pollution Control Ordinance (Cap 311)

Section 13 of the Noise Control Ordinance (Cap 400)

Statutory Orders/ notices	Relevant information
Notices	<ul style="list-style-type: none"> (a) under Section 3 of Water Pollution Control (Sewerage) Regulation (Cap 358AL) to enable connection to public sewage system; (b) under Section 10 of Air Pollution Control Ordinance (Cap 311) in respect of emission of air pollutants which may cause deposit of dust/grit or objectionable odour or have adverse health effect, etc.; or (c) under Section 13 of the Noise Control Ordinance (Cap 400) requiring the owner, tenant, occupier or person in charge of the common facilities or commercial/industrial flats of a building to bring his noise emissions into a state of compliance by certain date.

Electrical and Mechanical Services Department (EMSD)

Electricity Ordinance (Cap 406)

Gas Safety Ordinance (Cap 51)

Lifts and Escalators Ordinance (Cap 618)

Statutory Orders/ notices	Relevant information
Notices	<p>(a) Electrical installation Notice may be served under the Electricity Ordinance (Cap 406) for lack of repair, maintenance and test and to request an owner to rectify any problem associated with an electrical installation in a building so as to ensure electrical safety.</p> <p>(b) Gas installation EMSD may serve an improvement notice under the Gas Safety Ordinance (Cap 51) to remedy any contravention of the Ordinance so as to ensure gas safety. The contravention may be due to lack of repair, maintenance or testing of piped or cylinder gas installations.</p> <p>(c) Lift and escalators installations Notice may be served under the Lifts and Escalators Ordinance (Cap 618) for the lift and escalator installations of building not complying with the Regulations. The objective is to ensure the lifts and escalators meet safety standards.</p>

Food & Environmental Hygiene Department (FEHD) - Public Health and Municipal Services Ordinance (Cap 132)

Statutory Orders/ notices	Relevant information
Notice	Notice may be served under the Public Health and Municipal Services Ordinance (Cap 132) for the abatement of sanitary nuisance arising from water seepage in private premises.

Term	General Definition
Rehabilitation	When an aged building lacks proper maintenance or is in serious disrepair, comprehensive rehabilitation works are necessary to improve its conditions. Solutions such as repair, replacement, restoration to the original design, improvement and upgrade, coupled with reconstructing or reconfiguration measures, can strengthen the structure of the building and in return, minimise the risk of being declared unsafe.
Maintenance	Regular inspections, cleaning, oiling (mechanical parts), adjustments and tests, such as repair of spalled concrete, oiling and testing of lifts, etc., are carried out on various elements of the building and its facilities to minimise deterioration and facilitate early detection of defects.
Repair	<p>Repair is a passive remedy to identified defects. It is often called in as a necessary measure.</p> <ul style="list-style-type: none"> • Preventive Maintenance Properly planned regular inspection and timely repair works in accordance with the design and life expectancy of the building and its elements can effectively perpetuate their sound condition and proper functioning, thereby minimising the inconvenient needs for emergency repair and lowering the cost of works. • Emergency Repair Defects that put residents and the public at risk or affect the daily operation of the whole building require emergency repair. These include loosened external finishes, cracks in water pipes, malfunctioned power supply system, defective fire safety provisions/fire service installations and facilities and lift elements.
Replacement	When a building element or a component of a system is broken to the point a repair is not cost-effective, or when it expires, a replacement is necessary. Such elements or components may include bearings or lift ropes, etc.
Improvement and Upgrade	This includes repainting, enhancement and renovation, etc., with a view to improving or enhancing the effectiveness or specification of certain parts of the building, or to complying with new regulations, such as fire safety or lift modernisation works.
Reconstruction or Reconfiguration	Reconstruction or reconfiguration goes beyond mere facelift, it also improves the safety and hygiene of a building on a par with prevailing standards. The aim is to refit old buildings with modern facilities to enhance the quality of living.

Common Building Defects, Their General Causes and Solutions

Building Defect	General Causes	Solutions
Spalling of structure/concrete	<ul style="list-style-type: none"> • Persistent seepage of water that eats into the reinforcing bars • Rust in reinforcing bars caused by seepage of flushing water in the concrete • Structural overload • Excessive movement of building structures or foundation settlement • Partial structural weaknesses caused by deterioration of materials • Accidental damages • Poor design/construction 	<ul style="list-style-type: none"> • To chisel away defective or loosened concrete until the reinforced substrate underneath is exposed; • To remove rust from reinforcing bars and patch the hollowed areas with appropriate type of mortar to protect the bars from corrosive oxidation; • If the reinforcing bars are greatly reduced in diameter after the rust is removed, supplementary or replacement bars must be applied before the hollowed area is patched with mortar; • In the case where the spread of defective concrete runs deep into the substrate, partial or complete demolition and reconstruction of the affected parts are required. Sufficient temporary propping should be in place to prevent collapse of structures under construction. Owners of the building should commission a building professional, e.g. a Registered Structural Engineer, to handle the entire process from design to selection of materials, and from detailed planning to site supervision.
Defective tiles or finishes on external walls	<ul style="list-style-type: none"> • Ageing of tiles/finishes on external walls • Structural movements; • Movements caused by thermal expansion and contraction; • Defect in or absence of expansion joints; • Impact from falling objects; • Water seepage into gaps between rendering of external walls/tiles and building structures 	<ul style="list-style-type: none"> • To remove and replace all loosened parts; • To ensure proper adhesion of different materials to each other when patching, including the adhesion of newly added mortar to existing wall surfaces, with the application of bonding agents for tiles where appropriate; • To apply adhesives on tiles where appropriate during adhesion of new finishes such as tiles or mosaics to mortar; • There are many ways to repair cracks on external walls, for example: <ol style="list-style-type: none"> i. To perfuse the cracks with specialised chemical agent; ii. To chisel away the cracked parts and ensure proper and direct adhesion of newly added materials to existing wall surfaces, before patching the cracks with wet or ready-mixed dry mortar.

Common Building Defects, Their General Causes and Solutions (cont' d)

Building Defect	General Causes	Solutions
Water seepage	<ul style="list-style-type: none"> • Cracks on external walls • Honeycombing of concrete • Defect in waterproof sealants of windows • Defect in rooftop membrane • Defect in external water pipes and drainage pipes 	<ul style="list-style-type: none"> • Water seepage from rooftop: Replace all ageing or damaged membranes; • Water seepage on external walls: Remove dusts and other impurities from leak spots such as holes, honeycombed concrete and cracks, then apply appropriate waterproof patches.
Defective drainage system	<ul style="list-style-type: none"> • Blockage resulted from misalignment • Sharp bends where rubbish or sediment accumulate • Shortage or ageing of pipe mounting brackets • Hammering sound or burst that occurs when the water pipes are under pressure • Blockage of connecting hoppers in funnels by overgrowth or rubbish • Illegal addition of structures that overload the drainage system 	To engage building professionals to assess the need for a replacement of defective sections or all drainage pipes.

Common Building Defects, Their General Causes and Solutions (Cont'd)

Building Defect	General Causes	Solutions
Defective fresh water pipes	<ul style="list-style-type: none"> • Blockage or leakage in components of the water service such as pipes and valves • Corroded pipes or unclean storage tanks • Pump malfunction • Breakage of supply pipelines • Defective water tanks, pipe joints or valves • Missing water tank covers • Defective water tank covers • Water leakage in the internal plumbing after water meters, and fluctuation in water pressure caused by defective pumps 	<p>To engage licensed plumbers to carry out relevant plumbing works (replacement of galvanised iron pipes for fresh water supply²³ should be covered in the scope of rehabilitation works).</p> <p>For division of responsibilities for the maintenance of fresh water pipes, please visit:</p> <p>‘Building Rehab Platform’ website (https://brplatform.org.hk), or</p> <p>Water Supplies Department website (https://www.wsd.gov.hk/en/home/index.html)</p>
Defective gas pipes	<ul style="list-style-type: none"> • Corrosion caused by strong acid or other corrosive substances • Leakage of drainage pipes atop or nearby • Improper renovation works • Persistent water seepage in floor/ceiling • Improper removal of gas facilities • Misuse of gas pipes as supportive structure for scaffolding 	<ul style="list-style-type: none"> • To notify the gas supply company for on-site inspection; • To repair any nearby drainage pipes in disrepair; • To engage registered gas contractors to carry out works regarding the installation or removal of gas facilities.
Defective electrical installations	<ul style="list-style-type: none"> • Failure of fuses or circuit breakers • Overload resulted from earth leakage • Uneven load distribution • Insufficient earth bonding 	<p>To engage registered electrical contractors/engineers to carry out electrical works. Upon completion (including additional installation, alteration and repair), the registered electrical contractors/engineers must inspect and test the electrical installations concerned, followed by the issuance of a signed Work Completion Certificate (Form WR1) to owners of fixed electrical installations.</p>
Defective lift installations	<ul style="list-style-type: none"> • Aged components • Mechanical failures • Unattended misalignment between landing position of the lifts and floor height • Operation obstructed by wastes • Insufficient maintenance 	<p>Pursuant to the relevant provisions of the <i>Lifts and Escalators Ordinance</i> (Cap. 618), owners of lift installations shall engage registered lift contractors to perform the following tasks:</p> <ul style="list-style-type: none"> • To inspect, clean, oil and adjust lifts at least once a month; • To test and inspect of relevant safety equipment once a year; • To examine lifts with rated load, overload alert devices and emergency driving machine brake once every 5 years.

²³ The Water Supplies Department has banned the use of galvanised iron pipes for fresh water supply since 23rd December 1995.

Common Building Defects, Their General Causes and Solutions (cont' d)

Building Defect	General Causes	Solutions
<p>Unauthorised building works (UBW)</p>	<p>Unauthorised structural additions or changes to the original building structure by owners</p>	<p>Pursuant to the <i>Buildings Ordinance</i> (Cap. 123)</p> <ul style="list-style-type: none"> • Owners are liable for the duly rectification of any divergence from any plan approved by removing UBW in their properties and restoring their original states in accordance with the approved plans; • The OC of a building may, in compliance with the DMC of the building, institute a civil action against individual owners, demanding termination of construction or removal of UBW in common areas of the building; • The public may raise complaints against individual circumstances to the BD, who will take priority action against UBW under construction.
<p>Defective fire safety provisions/fire service installations and facilities</p>	<ul style="list-style-type: none"> • Blockage or leakage in water pipes or valves • Pump failure • Water seepage in the fire service • Damaged, rusted or failed pipes, joints or valves • Defect in fire alarm wires or short circuit • Insufficient maintenance, repair or management 	<p>Pursuant to Section 8 of the <i>Fire Service (Installations and Equipment) Regulations</i> (Cap. 95B)</p> <ul style="list-style-type: none"> • Owners shall engage registered fire service installation contractors to inspect fire service installations or facilities at least once every 12 months; and • To repair failed or defective fire service installations.
<p>Defective windows</p>	<ul style="list-style-type: none"> • Rusted frames or screws • Peeling or aged putty or sealant • Tight hinges • Loosened rivets, screws or anchors 	<ul style="list-style-type: none"> • To repaint the undercoat and topcoat of window frames on a regular basis; • To maintain the glazing putty properly; • To lubricate the hinges on a regular basis; • To replace defective hinges/loosened components.

Common Building Defects, Their General Causes and Solutions (cont' d)

Building Defect	General Causes	Solutions
Additional objects on external walls	<ul style="list-style-type: none"> • Lack of maintenance • Natural erosion • Weaknesses caused by unauthorised addition works • Water seepage caused by insufficient density or cracks and tears on waterproof topcoat, causing the reinforcing bars to corrode and its capacity weakened 	<ul style="list-style-type: none"> • Owners should allocate sufficient resources for the regular inspection and repair of such objects to prevent them from falling off.
Slopes and retaining walls	<ul style="list-style-type: none"> • Blockage of drainage channels caused by heavy rain (where miscellaneous articles or rubbish accumulate) • Defective aboveground drainage channels (cracks on slope surfaces and drainage channels caused by overgrowth) • Degradation of protective surfaces (spalling or degradation of adhesive mortar that holds together the stone walls) • Rapid increase in underground water level • Blockage of weep holes • Extensive water seepage from the surface or weep holes of the slopes or retaining walls 	<ul style="list-style-type: none"> • Owners shall be responsible for the repair and maintenance of slopes and retaining walls within their private land/adjoining or nearby government land prescribed in provisions of the relevant land lease or agreement. • To carry out regular inspections of slopes to protect the slope surface and drainage channels from defects by removing loosened debris and overgrowth. • Owners should cause professionals (e.g. geotechnical engineers) to frequently inspect the retaining walls to ensure their proper structure and drainage function. • Inspection of retaining walls with monitoring installations should be carried out by qualified persons on a regular basis. • To carry out regular maintenance and enhancement to ensure stability and proper condition of slopes and retaining walls, especially before rainy season.

Prevention of Bribery Ordinance (Cap 201)

- The Prevention of Bribery Ordinance deals not only with bribery of government/ public officials, but also with private sector corruption.
- Section 9 of the Prevention of Bribery Ordinance prohibits corrupt acts of agents when conducting the business of their principals. The following provides a gist of the relevant provisions in the Prevention of Bribery Ordinance. Property owners/ OCs should refer to the original text of the Prevention of Bribery Ordinance for the full version if necessary.

Principal

The OC, as the legal entity representing all owners, is generally the principal in relation to the management and maintenance of the common parts of the buildings. A PMC, works consultant or works contractor is also the principal in respect of its staff and agents.

Agent

Members of the MC, employees of the OCs, property owners or any person including volunteers acting on behalf of the OCs to carry out their business, are agents of the OC. An employee of a PMC, works consultant or works contractor is also an agent of the PMC, consultant or contractor.

Advantage

- any gift, loan, fee, reward or commission consisting of money or in kind;
- any office, employment or contract;
- any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- any other service, or favour (other than entertainment), including protection from any penalty or disability incurred or apprehended, or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
- the exercise or forbearance from the exercise of any right or any power or duty; and
- any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of the above mentioned items.

Entertainment

Entertainment means the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with or provided at the same time.

Managing Conflict of Interest

What is Conflict of Interest?

- A conflict of interest situation arises when the financial or personal interests of an MC member or staff who acts on behalf of the OC in carrying out any business relating to the building competes with or is in conflict, whether actual or perceived, with the interest of the OC. The same applies to works consultant and works contractor.
- Conflict of interest, if not handled properly, may be perceived as corruption or abuse of power, even though the related parties have not received any actual advantages.

How to Manage Conflict of Interest?

A Mechanism for MC Members and Staff:

- ✓ MC members or staff should be required to avoid and, if unavoidable, declare to the Secretary of the OC any actual or perceived conflict of interest.
- ✓ The Secretary should report the case to the Chairman of the OC for a decision on the action to take, such as electing another member as a replacement.
- ✓ Any report of conflict of interest and actions taken should be properly recorded
- ✓ In case the building maintenance project is carried out by way of tender, all parties involved in the tender exercises (e.g. members of the MC, the Manager and his staff) should each declare in writing whether he has any conflict of interest in the tender under consideration; and undertake to declare so as soon as he becomes aware of such a conflict.



[Sample 9](#) — Sample form for declaration of conflict of interest


Probity Requirements for MC Members and OC Staff:

- In carrying out any business relating to the building on behalf of the OC, including building maintenance projects, the MC members and staff should :
 - ✓ act in the interest of the OC ;
 - ✓ in no way solicit or accept any advantage on account of his handling the OC's business ;
 - ✓ avoid as far as possible, and declare if unavoidable, any conflict of interest; and
 - × abstain from the discussion of matters and decision-making process where a conflict of interest exists, as considered necessary and directed by the MC.
- The OC should lay down the probity requirements for its MC members and staff in a code of conduct



[Sample 1](#) — Sample Code of Conduct for Owners' Corporations

Duties and Rights of OCs, MCs and Owners

Role	Authority/Right	Duty/Responsibility
<p style="text-align: center;">OC</p>	<ul style="list-style-type: none"> ▪ To decide whether to appoint salaried staff members, property management company, professionals/lawyers or other qualified architecture professionals (e.g. work consultant, work contractor and work supervisor etc.) to assist in the execution of its duties or exercise of its power; ▪ To make decisions on issues related to common parts of the building, such as purchase of facilities and implementation of renovation, improvement or decorative works; ▪ To pass, at owners’ meetings, resolutions on <ul style="list-style-type: none"> - the control, management and administrative issues regarding the common parts of the building; - renovation, improvement or decorative works for such common parts; • To formulate integrity requirements and code of conduct, with which members of the MC shall comply when performing duties of the OC. <p style="margin-top: 20px;"> Template 1 – Code of Conduct for OCs</p>	<ul style="list-style-type: none"> • To exercise and perform all rights, authority, privileges and duties of an owner in relation to common parts of the building; • To be legally obliged to properly manage and maintain the common parts of the building, and to take all reasonable and necessary measures to fulfil the responsibilities for the control, management and administration of the building as stipulated by the DMC; ▪ To purchase third-party risks insurance covering the common parts of the building and properties of the OC; ▪ To comply with the <i>Code of Practice on Building Management and Maintenance</i> issued by the Secretary for Home Affairs when performing its duties and exercising its powers.

Rights and Responsibilities of OCs, MCs and Owners (Cont'd)

Role	Power/Right	Duty/Responsibility
MC	<ul style="list-style-type: none"> ▪ To handle routine tasks of the OC; ▪ To exercise the powers and perform the duties delegated to the OC by the <i>Ordinance</i>; ▪ To demand works consultant or contractor to fulfil the contract terms. 	<ul style="list-style-type: none"> ▪ To convene annual general meetings of the OC on a regular basis; ▪ To convene regular MC meetings; ▪ To draft regular financial statements for the OC; ▪ To prepare budgets for the OC on a regular basis, to determine the contributable amount of owners to the general or contingency fund and to verify items concerning payments to the fund; ▪ To provide the following items for inspection by persons fulfilling the requirements of the <i>Ordinance</i>: <ul style="list-style-type: none"> - Ledgers, statement records and receipts, invoices, certificates, sales slips and other documents to which such records refer; - The insurance policies entered between the OC and the insurance company and receipts for the relevant premium payment; ▪ To place the following documents in its custody: <ul style="list-style-type: none"> - Ledgers, statement and other records, together with receipts, invoices, certificates, sales slips and other documents to which such records refer; - Tender documents and contracts, account entries, invoices and other documents related to the procurement of supplies, goods or services; - Verified minutes of MC meetings and general meetings of the OC; - Instruments of proxy for general meetings of the OC; ▪ To pay works consultant and contractors in compliance with terms of the relevant contracts; ▪ To monitor the service quality and performance of works consultant in compliance with terms of the relevant contracts; ▪ To arrange meetings with works consultant or works contractors in a proper manner.

Rights and Responsibilities of OCs, MCs and Owners (Cont'd)

Role	Power/Right	Duty/Responsibility
<p>Owner</p>	<ul style="list-style-type: none"> ▪ To monitor operation of the MC; ▪ To express opinions on building rehabilitation in accordance with meeting procedures; ▪ To consult the MC, works consultant and contractors about building rehabilitation to; ▪ To exercise voting rights with regard to building management and maintenance, e.g. the implementation of building rehabilitation, and the selection of works consultant, work items and work contractors, etc. 	<ul style="list-style-type: none"> ▪ To comply with items resolved at general meetings of the OC or by the MC; ▪ To pay their contributions payable for the repair works; ▪ To keep abreast of the operations of the OC and building management, such as attending general meetings of the OC to exercise their own voting rights on relevant items.

Management Services Provided by the ‘Manager’ (Building Rehabilitation)

The management routines of a building, by definition involving a lot of miscellaneous tasks such as matters concerning the procurement, finance, meeting arrangement and related documentation, is often outsourced to a ‘manager’, whose workload increases inevitably when the need for building rehabilitation arises. In this case, additional manpower and resources may be needed to handle the relevant procedures. Any extra service fees thus incurred are generally charged to the **owners/OCs** in accordance with the contract terms or agreement made between the **owners/OCs** and the manager.

Management

- To assist **owners/OCs** in handling and following up on disputes and complaints concerning works consultant/contractor;
- To follow up, whenever necessary, on tasks arisen from potential faults of completed works after the disengagement of works consultant/contractor;
- To assist **owners/OCs** in handling the communication, paperwork and administration related to building rehabilitation, such as attending relevant additional meetings and handling relevant paperwork (e.g. arranging meetings with works consultant and drafting relevant minutes);
- To assist **owners/OCs** in communicating with and monitoring works consultant and contractor;
- To assist **owners/OCs** in making applications for relevant building rehabilitation subsidy/support schemes to government departments/other organisations;
- To assist in arranging temporary closure and suspension of public facilities (such as cordoned off areas on the ground during works at height);
- To discuss the use of temporary facilities with works consultant and contractor and to draft relevant notices.

Finance

- To assist in calculating the apportion of rehabilitation work expenses submitted by the works consultant/contractor or to assist the **owners/OCs** in reviewing such expenses in compliance with the provisions of the DMC;
- To print and distribute fund collection notices of work expenses, payment reminders and receipts;
- To collect funds, to record and recover arrears, and to handle relevant legal actions.

Security

- To assist in handling issues concerning the erection of scaffolding and complaints lodged by the **owners/OCs**, for example:
 - The setting up of cordoned off areas during works to protect residents;
 - Security reinforcement including enhanced security patrols, registration and random inspection of worker permits, enhanced alertness of the security guards, security arrangements for shady areas and material storages, etc.;
 - Impact on or damage of air conditioners, windows or other private properties of individual **owners/residents** during the erection of scaffolding by the work contractor;
 - Erection of scaffolding by the work contractor without notice/in a forceful manner;
 - Safety issues during typhoon;
 - Anti-burglary issues;
- To handle damages caused to building facilities during transport of construction materials or tools by the work contractor;
- To alleviate blockage of common areas or fire escape routes caused by misplacement of construction materials or wastes by the work contractor;
- To assist in handling conflicts/disputes between the work contractor and the **owners/residents**.

Cleaning

- To arrange and coordinate additional cleaning service during chiselling and construction works to remove dust and dirt in common areas, corridors and individual flats caused by insufficient coverage;
- To handle the increased amount of rubbish, including construction wastes improperly handled;
- To remove stagnant water and insect problem caused by improper handling of construction materials during the works/construction wastes;
- To keep routes clear and set up roadways for emergency vehicles.

In view of the ambiguity in rights and responsibilities among the ‘managers’, works consultant and work contractors that may arise during the works, such as paperwork, communication with relevant government departments and handling of construction wastes during the works, it is advisable for **Owners/OCs** to define the duties of each party clearly and understand thoroughly the terms of contracts signed by each party to avoid unnecessary disputes.



Sample/ Form/ Template

Step 1

Sample 1 – Sample Code of Conduct for Owners’ Corporations

Sample 2 – Notice of an Owners’ Meeting

Sample 3 – OC Formation –Instrument of Proxy for Meetings of Owners

Sample 4 – OC Formation - Acknowledgement Receipt of the Instrument of Proxy

Sample 5 – OC Formation - List of Flats with Instruments of Proxy lodged

Sample 6 – General Meeting of OC - Instrument of Proxy for Meetings of Corporation

Sample 7 – General Meeting of OC - Acknowledgement Receipt of the Instrument of Proxy

Sample 8 – General Meeting of OC - List of Flats with Instruments of Proxy lodged

Sample 9 – Sample Form for Declaration of Conflict of Interest

Remarks:

The samples, documents, forms and contract terms of the building maintenance and repair works in this guide are for reference only. If the building owner has appointed a works consultant for the project, the works consultant should be required to choose the suitable terms for projects under different circumstances. If the project does not appoint any works consultant, the building owner should consult professional advice. And, if necessary, you should seek legal advice. **Hong Kong Building Rehabilitation Facilitation Services Limited** and its partners will not be liable, including legal or other liability, for any loss or damage caused by any person making or waiving any of the contents of this Guide.

Sample Code of Conduct for Owners' Corporations

The Management Committee (MC), as appointed by the Owners' Corporation (OC), is committed to managing the building with integrity, honesty and fairness. The OC has thus passed a resolution that all its agents including members of the MC and the sub-committees, employees and contractors should observe this Code when conducting business for the OC.

Prevention of Bribery Ordinance

Any agent of the OC soliciting or accepting an advantage in connection with his work for the OC without the permission of the OC will commit an offence under Section 9(1) and the offer or of the advantage will commit an offence under Section 9(2) of the Prevention of Bribery Ordinance (Cap 201). The term "advantage", as defined in the Ordinance includes money, gift, loan, fee, reward, employment, contract, service and favour but does not include entertainment which is the provision of food or drink for consumption on the occasion.

Any agent of the OC using any false documents, records, accounts or receipts with the intent to deceive the OC will commit an offence under Section 9(3) of the Ordinance.

Acceptance of Advantage

The OC has passed a resolution that agents of the OC are not allowed to solicit or accept any advantage when conducting business for the OC, unless with the prior permission of the OC in writing. Examples include MC members not to accept gifts from contractors and caretakers not to solicit tips from owners and tenants.

Entertainment

Although entertainment is not an advantage and is an acceptable form of social and business activity, agents of the OC (e.g. MC members, works consultant) should avoid accepting lavish or frequent entertainment from business associates of the OC (e.g. contractors or sub-contractors) so as not to put themselves in a position of obligation or affect their judgement. Excessive gambling with and loans from business associates of the OC should also be avoided.

Conflict of Interest

A conflict of interest arises when the private interest of an agent of the OC competes or conflicts with the interest of the OC. Private interest includes both the financial and personal interest of the agent and those of his connections. Connections include his family members, relatives and close personal friends.

Agents of the OC should avoid any situation which may lead to an actual or perceived conflict of interest and make a declaration to the MC or the OC when such a situation arises. Examples include an MC member holding the shares of a contractor bidding for the OC's contract, and a caretaker being a relative of his supervisor. Failing to declare or avoid conflict of interest may give rise to criticism of favouritism, abuse of authority or even allegation of corruption.

Handling Confidential Information and Accounts

Agents of the OC should not disclose any confidential information (e.g. tender price, personal data etc.) of the OC without authorization and should take the necessary measures to protect such information from being abused or misused. Agents should ensure the documents, accounts and receipts submitted to the OC are true and accurate.

Compliance with Code of Conduct

It is the responsibility of the agents of the OC to understand and comply with this Code. The OC will ensure agents fully understand and observe the requirements and standards laid down in the Code.

Agents of the OC who is in breach of the code of conduct may be dismissed or removed from office by resolution of the OC. In case of suspected corruption or other criminal offences, a report will be made to the ICAC or the appropriate authorities.

Any enquiries or complaints on possible breaches of this Code should be directed to the chairman or the MC of the OC.

Sources : Building Maintenance Toolkit published by ICAC

Notice of an Owners' Meeting (Sample)

_____ (Date)

To : The owners

Notice of an Owners' Meeting

of _____ (name of building) at
[_____] (address of building)

to be convened in accordance with section 3 of the Building Management Ordinance

Notice is hereby given pursuant to section 3 of the Building Management Ordinance (BMO) that a meeting of owners of the above-mentioned building will be held. Details are as follows –

Date :

Time :

Venue :

The meeting is convened for the purpose of forming an owners' corporation and appointing a management committee consisting of a chairman, a vice-chairman (subject to the passage of a resolution by owners on the establishment of the office), a secretary, a treasurer and other members in compliance with section 3 of the BMO. It will also discuss and pass the resolutions for the matters related to the incorporation of owners. The agenda of the meeting is as follows –

- (1) to resolve on the formation of an owners' corporation and the appointment of a management committee
- (2) to resolve on the number of members of the management committee
- (3) to resolve on the appointment of members of the management committee
- (4) to resolve on the establishment of the office of vice-chairman of the management committee
- (5) to resolve on the appointment of a chairman of the management committee
- (6) to resolve on the appointment of a vice-chairman of the management committee (subject to the passage of a resolution on the establishment of the office)
- (7) to resolve on the appointment of a secretary of the management committee
- (8) to resolve on the appointment of a treasurer of the management committee
- (9) to resolve on the registered address of the owners' corporation
- (10) any other business

You are cordially invited to attend the meeting. If you are unable to attend the meeting, you may appoint a proxy to attend and vote on your behalf. Appointment of proxy has to be made by using the enclosed instrument of proxy (i.e. proxy form), which is in the format specified by the BMO. The instrument of proxy is also available at _____ (details of location). The instrument of proxy duly signed by the owner(s) must be lodged with the convenor of the owners' meeting (address : _____) at least 48 hours before the time for the holding of the meeting.

Name of the meeting convenor :

Signature of the meeting convenor :

Sources : Home Affairs Department's website https://www.buildingmgt.gov.hk/en/reference_materials/10_1.htm

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.

The format as shown in this instrument is the statutory one which is set out in the *Building Management Ordinance* (Form 1 in Schedule 1A). No alteration of the format is permitted.

Sources : Home Affairs Department's website https://www.buildingmgt.gov.hk/en/reference_materials/10_1.htm

Statement of Purposes in respect of Collection of Personal Data

(Document attached to the Instrument of Proxy) (Sample)

(for reference only)

Purpose of Collection

1. This instrument is to be used by you to appoint a proxy to attend the owners' meeting of this building held for the purpose of forming an owners' corporation (OC) and appointing a management committee (MC). Your proxy will form the quorum and vote on your behalf at the meeting.
2. The convenor of the meeting may follow up on the personal data you provided in this instrument and, if necessary, will contact you for the purpose of verifying the validity of the appointment of your proxy.

Consent of your Proxy

3. You should obtain the consent of your proxy in using his/her personal data provided in this instrument, and provide your proxy with this statement, informing him/her of the purpose for collecting his/her personal data.

Classes of Transferees

4. The convenor of the meeting and/or the new OC and its MC may disclose the personal data you provided in this instrument to other owners of this building, and/or other relevant persons and bodies for the purposes mentioned in paragraph 2 above.

Access to Personal Data

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

Enquiries

6. Enquiries concerning the personal data collected by means of this instrument, including requests for access to and correction of data, should be directed to the convenor of the meeting (Telephone Number:).

Sources : Home Affairs Department' s website https://www.buildingmgt.gov.hk/en/reference_materials/10_1.htm

Acknowledgement Receipt of the Instrument of Proxy (Sample)

Sample 4

_____ (Date)

To : # The owner(s) of/body corporate which owns Flat _____ , Floor _____ , Block _____

Meeting of the owners of

_____ (Name of Building)

(Date and time of the meeting: _____ #a.m./p.m. on _____)

I hereby acknowledge receipt of the instrument of proxy lodged by you.

As the convenor of the meeting, I shall determine the validity of the instrument in accordance with section 3(10)(e)(ii) of the *Building Management Ordinance*.

Name of the convenor of the meeting :

Signature of the convenor of the meeting :

Delete where inapplicable.

Sources : Home Affairs Department's website https://www.buildingmgt.gov.hk/en/reference_materials/10_1.htm

List of Flats with Instruments of Proxy lodged (Sample)

Meeting of the owners of

_____ (Name of Building)

Date :

Time :

Venue :

The owners of the flats listed below have lodged the instruments appointing proxies with the convenor of the meeting :

Flats		

Note :

(1) The convenor of the meeting shall display a list of the flats whose owners have lodged the instruments of proxy (irrespective of validity) in a prominent place in the place of the meeting before the time for the holding of the meeting and cause the list to remain so displayed until the conclusion of the meeting.

(2) Those flats whose instruments of proxy have been determined to be invalid by the convenor of the meeting are marked with a sign.

Sources : Home Affairs Department's website https://www.buildingmgmt.gov.hk/en/reference_materials/10_1.htm

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.

The format as shown in this instrument is the statutory one which is set out in the *Building Management Ordinance* (Form 2 in Schedule 1A). No alteration of the format is permitted.

Sources : Home Affairs Department's website https://www.buildingmgt.gov.hk/en/reference_materials/10_1.htm

**Statement of Purposes in respect of
Collection of Personal Data (Sample)**

(for reference only)

Purpose of Collection

1. This instrument is to be used by you to appoint a proxy to attend the general meeting of the corporation/ the annual general meeting of the corporation and any adjourned meeting (of applicable). Your proxy will form the quorum and vote on your behalf at the meeting.
2. The chairman and/ or secretary of the management committee (MC) of the owners' corporation (OC) may follow up on the personal data you provided in this instrument and, if necessary, will contact you for the purpose of verifying the validity of the appointment of your proxy.

Consent of your Proxy

3. You should obtain the consent of your proxy in using his/her personal data provided in this instrument, and provide your proxy with this statement, informing him/her of the purpose for collecting his/her personal data.

Classes of Transferees

4. The OC and its MC may disclose the personal data you provided in this instrument to other owners of this building, and/or other relevant persons and bodies for the purposes mentioned in paragraph 2 above.

Access to Personal Data

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

Enquiries

6. Enquiries concerning the personal data collected by means of this instrument, including requests for access to and correction of data, should be directed to secretary of the MC (Telephone Number:).

Sources : Home Affairs Department' s website https://www.buildingmgt.gov.hk/en/reference_materials/10_1.htm

**Acknowledgement Receipt of
the Instrument of Proxy (Sample)**

_____ (Date)

To : # The owner(s) of/body corporate which owns Flat _____ , Floor _____ , Block _____

General Meeting of _____

(name of owners' corporation)

(Date and time of the meeting: #a.m./p.m. on _____)

I hereby acknowledge receipt of the instrument of proxy lodged by you.

According to paragraph 4(5)(b) of Schedule 3 to the Building Management Ordinance, 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.

Name of the secretary of the management committee :

Signature :

Delete where inapplicable.

Sources : Home Affairs Department' s website https://www.buildingmgt.gov.hk/en/reference_materials/10_1.htm

**List of Flats with
Instruments of Proxy lodged (Sample)**

General Meeting of _____
(name of owners' corporation)

Date :

Time :

Venue :

The owners of the flats listed below have lodged the instruments appointing proxies with the secretary of the management committee —

Flats		

Note :

(1) The secretary of the management committee shall display a list of the flats whose owners have lodged the instruments of proxy (irrespective of validity) in a prominent place in the place of the meeting before the time for the holding of the meeting and cause the list to remain so displayed until the conclusion of the meeting.

(2) Those flats whose instruments of proxy have been determined to be invalid by the chairman of the management committee or, if he is absent, the person who presides at the meeting are marked with a sign.

Sample Form for Declaration of Conflict of Interest

Part A – Declaration of Interest

To : *Secretary/Chairman of the Management Committee

Declaration of Interest

I understand that if I, my family members and close relatives and personal friends have any direct or indirect interest in any company which has business dealings with the Owners' Corporation (OC), I shall make a declaration to the Management Committee.

I would like to declare the following existing/potential* conflict of interest situation arising from the discharge of my duties concerning the operation of the Owners' Corporation or as members of the Management Committee:-

a) Persons/companies with whom/which I have official dealings :

b) My relationship with the persons/companies (e.g. relative)

c) Relationship of the persons/companies with the OC (e.g. supplier)

d) Brief description of my duties which involved the persons/ companies
(e.g. handling of tender exercise)

Position and Name: _____

Signature _____

Date _____

(*Delete as appropriate)

Part B – Record of Resolution of the Management Committee

Record of Resolution of the Management Committee

With respect to the above declaration, the Management Committee passed the following resolution:

(name of the person making the declaration) should refrain from performing or getting involved in performing the work/duty, as described in Part A, which may give rise to a conflict.

(name of the person making the declaration) may continue to handle the work/duty as described in Part A, provided that there is no change in the information declared above.

Others (please specify)

Secretary: _____

Chairman: _____

Signature: _____

Signature: _____

Date of Meeting: _____