

The Building Management (Amendment) Ordinance 2024 Major Amendments

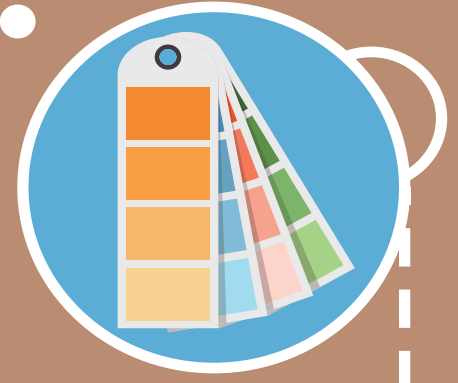


The Building Management (Amendment) Ordinance 2024 ("Amendment Ordinance") will come into operation on **13 July 2025**



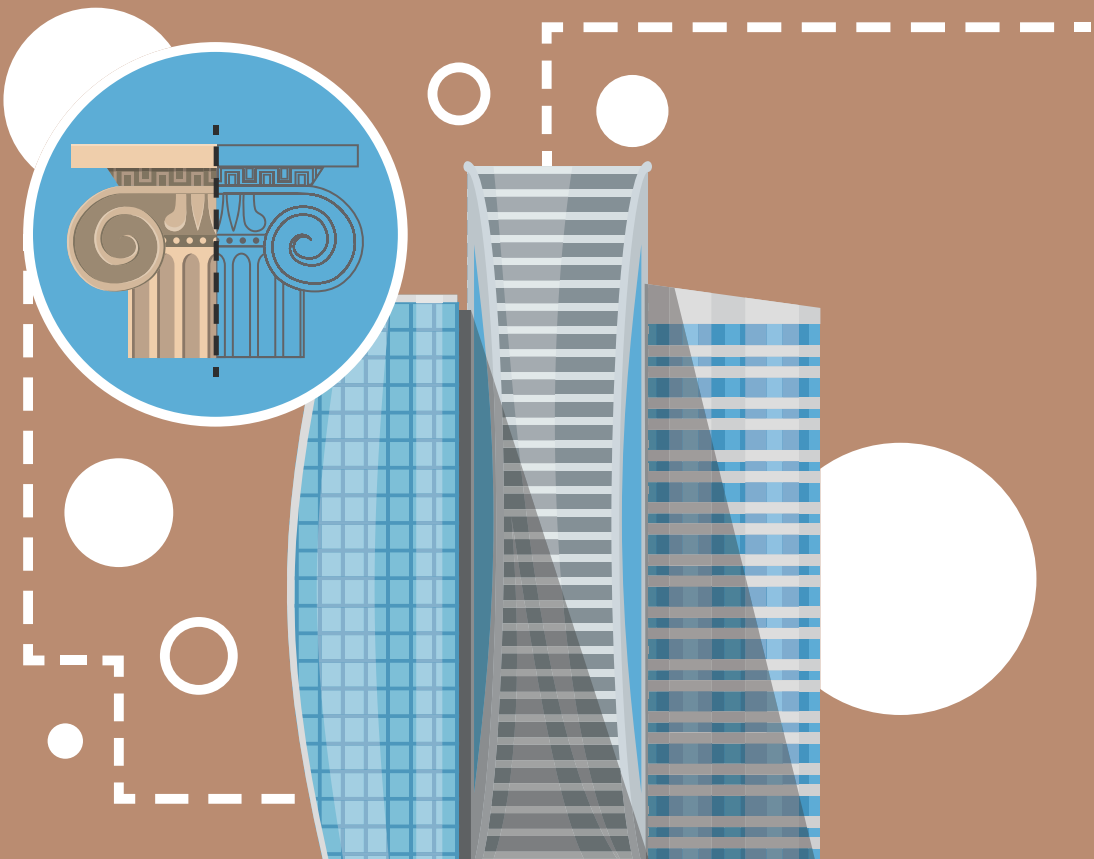
Objectives:

- To require the engagement of more owners in major procurement decisions
- To improve the transparency and accountability of the operation of owners' corporations ("OCs")
- To enhance deterrence against non-compliance with the Building Management Ordinance ("BMO")



(I)

High-value procurement



Definition of Procurement Categories

The Amendment Ordinance provides for 3 Procurement Categories:

■ Type 1 High-value Procurement:

- the procurement value exceeds, or is likely to exceed, \$200,000;
- the procurement is not type 2 high-value procurement; and
- the procurement is not large-scale maintenance procurement

■ Type 2 High-value Procurement:

- the procurement value exceeds, or is likely to exceed, 20% of the average annual expenditure for the last 3 financial years ("**reference amount**"); and
- the procurement is not large-scale maintenance procurement

■ Large-scale Maintenance Procurement:

- the procurement is mainly for repairing, replacing, maintaining or improving the common parts of the building;
- the **average procurement value per flat** in the works project exceeds, or is likely to exceed, \$30,000; and
- the procurement is not the procurement of any cleaning or security services for the building, or any building management services provided by the manager of the building



1.	For type 2 high-value procurement, the "average annual expenditure for the last 3 financial years" (instead of the "annual budget") will serve as the benchmark in order to better reflect the actual expenditure pattern of OCs.
2.	On the definition of "type 2 high-value procurement", the reference amount is calculated as follows: (a) If there is more than one amount of annual expenditure for the last 3 financial years that wholly fall before the initiation date for the procurement (i.e. the date on which it is decided that the procurement is to be conducted, including approaching potential suppliers for the procurement), the average of all such amounts shall be adopted. (b) If there is only one or no such amount of annual expenditure for the last 3 financial years, the amount of the proposed annual expenditure under the last budget prepared by the management committee ("MC")/the manager of the building shall be taken as reference.
3.	On the definition of "large-scale maintenance procurement", the calculation of number of flats does not include any garage, carpark or carport.

Procurement Requirements		Procurement Categories		
		Type 1 High-value Procurement	Type 2 High-value Procurement	Large-scale Maintenance Procurement
1.	Procurement must be conducted by an invitation to tender.	✓	✓	✓
2.	Tendering Requirements			
(i)	An invitation to tender issued for the procurement must set out clearly the nature of the supplies, goods or services to which the procurement relates, and specify a deadline for tender submission.			
(ii)	A copy of the invitation to tender must be displayed in a prominent place in the building until the deadline.			
(iii)	Tenders submitted after the deadline must not be accepted.	✓	✓	✓
(iv)	Minimum number of tenders to be invited:			
	Estimated procurement value exceeding \$200,000	An invitation to tender must be issued to at least 5 potential suppliers.		
	Estimated procurement value >\$10,000 but <\$200,000	An invitation to tender must be issued to at least 3 potential suppliers.		
(v)	Mechanism for waiving the above requirement on the minimum number of tenders to be invited.	MC resolution	Corporation resolution	Corporation resolution
3.	Declaration Requirements			
(i)	Part 1 - Basic Requirements			
	<ul style="list-style-type: none"> Where a responsible person for the procurement (i.e. the manager or a person who is accustomed or obliged to act in accordance with the directions or instructions of the manager in connection with the procurement) has any pecuniary/other personal dealing or connection with a member of an MC/owners' committee, he must make a declaration in the specified form to a specified person. Where a participant of an MC (i.e. a member, secretary or treasurer of the MC) and a responsible person for the procurement have any pecuniary or other personal interest in a tender submitted, or any connection with a person who has submitted a tender, he must make a declaration in the specified form to a specified person. Within 7 days after the declaration is made, a notice of the declaration must be displayed in a prominent place in the building for at least 7 consecutive days. A copy of the declaration must be produced to the MC/owners at the first procurement meeting of the MC/owners since the making of the declaration, and a copy of 	✓	✓	✓

Procurement Requirements

Procurement Categories

Type 1 High-value Procurement	Type 2 High-value Procurement	Large-scale Maintenance Procurement
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the declaration notice must be attached to the minutes of the MC/owners' meeting.

- A copy of the declaration must be kept during the period of 6 years after the date on which the procurement contract is entered into, and a specified person must be permitted to inspect the copy at any reasonable time.

Restrictions

- A participant of the MC who has made a declaration must not preside over or otherwise attend the session of the MC meeting that concerns the relevant procurement, and must not be counted toward the quorum for that session of the meeting (exemption may be granted by way of MC/corporation resolution).
- A participant of the MC who has made a declaration must neither be present at the meeting when the proposed resolution concerning the procurement is being voted on nor cast a vote (no exemption is allowed).
- A participant of the MC or a responsible person for the procurement who has made a declaration must not participate in any assessment of tenders or any negotiation or other activity relating to the procurement (for the responsible person who has made a declaration, exemption may be granted by way of MC/corporation resolution).



(ii) Part 2 – Additional Requirements

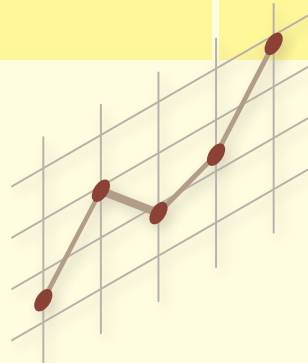
- Before the first tender acceptance meeting is held, **every** responsible person for the procurement must declare in a specified form to a specified person that he **does not have** any pecuniary/other personal dealing or connection with any member of the MC/owners' committee except for the dealing or connection so declared.
- Before the first tender acceptance meeting is held, **every** participant of the MC and **every** responsible person for the procurement must declare in a specified form to a specified person that he **does not have** any pecuniary or other personal interest in the tender submitted or any connection with a person who has submitted the tender, except for the interest or connection so declared.
- For every declaration, it is necessary to ensure that a document in respect of the declaration is attached to the minutes of the first tender acceptance meeting.
- A copy of the declaration must be kept during the period of 6 years after the date on which the procurement contract is entered into, and a specified person must be permitted to inspect the copy at any reasonable time.

N/A

N/A



Procurement Requirements		Procurement Categories		
		Type 1 High-value Procurement	Type 2 High-value Procurement	Large-scale Maintenance Procurement
4.	A tender must be accepted through a corporation resolution (by an owners resolution if there is no OC).	N/A	✓	✓ Specific procedures at general meetings of the OC/ owners' meeting must be complied with (see P.6)
5.	A contract must not be varied or terminated other than in accordance with a corporation resolution (by an owners resolution if there is no OC).	N/A	✓	✓ Specific procedures at general meetings of the OC/ owners' meeting must be complied with (see P.6)
※	<p>The tendering requirements can be waived if the following conditions are met:</p> <ul style="list-style-type: none"> the target supplies, goods or services are of the same type as any supplies, goods or services that are for the time being supplied by a supplier for the building; and it is decided by a corporation resolution (by an owners resolution if there is no OC) that the target supplies, goods or services must be procured from that supplier on specified terms and conditions, instead of by an invitation to tender. 	<p>✓</p> <p>Declaration requirements must still be complied with</p>	<p>✓</p> <p>Declaration requirements must still be complied with</p>	N/A



Large-scale maintenance procurement - specific procedures at general meetings of the OC/Owners' meeting

1. Notice of meeting

- The statement specifying the proposed large-scale maintenance procurement resolution must be titled "**Important Reminder**" in English and "**重要提示**" in Chinese.
- The estimated amount to be contributed from each building management fund and the estimated apportioned amount that each of the owners is to contribute for the procurement (or any financial liability incurred by the relevant variation, termination or avoidance of the procurement contract) must be set out clearly.

2. Voting-in-person threshold

- At least 5% of the owners or 100 owners (whichever is the lesser) must vote in person in order to pass a resolution on large-scale maintenance procurement/variation or termination of a contract.

3. Minutes of meeting

- Minutes of meeting must contain a clear record of the total number of votes cast personally and the total number of votes cast by proxy.
- Each of the owners and the tenants' representative (if any, and if there is an OC) must be supplied with a copy of the certified minutes for the meeting within 28 days after the date of the meeting.

Smart Tips

Under the Amendment Ordinance, copies of documents may be supplied in hard copy or electronic form. At the express request of the requester and with the agreement of the requested person, copies of procurement documents and minutes of meetings may be sent in electronic form. The requested person may impose a reasonable copying charge for supplying the requester (except the Authority and authorised officers) with the hard copy; and must not impose any charge for supplying the requester with the copy in electronic form.





(II)

Providing for a mechanism under which natural persons authorised by corporate flat owners may act for the latter at general meetings of OCs, or at meetings of owners for buildings without OCs

- Under the Amendment Ordinance, corporate flat owners may, by way of an **authorisation notice**, authorise a natural person to attend general meetings of the OCs/owners' meetings on their behalf, and to vote for them personally, such that corporate owners will be regarded as having voted in person in respect of large-scale maintenance procurement resolutions.
- The authorisation notice must be given in the specified form, impressed with the corporate flat owner's seal or chop, signed by a person authorised by the corporate flat owner in that behalf, and must be given to the secretary of the MC/the chairman of the owners' committee or the convenor of the owners' meeting at least 48 hours before the time for the holding of the meeting.
- The secretary of the MC/the chairman of the owners' committee or the convenor of the owners' meeting must set out on a list every flat in respect of which an authorisation notice was given, and display the list in a prominent place in the place of the meeting before the time for the holding of the meeting until the conclusion of the meeting.

Smart Tips

Under the Amendment Ordinance, corporate flat owners may still appoint a proxy to attend and vote at general meetings of the OCs/owners' meetings by way of proxy instruments. However, the votes cast by proxy shall not be counted toward the number of votes from owners voting in person under the requirement in respect of large-scale maintenance procurement resolutions.



%



\$

(III)

Financial requirements
for OCs and buildings with
managers engaged



- Under the Amendment Ordinance, the financial statements of the buildings with total annual income or expenditure (or both) exceeding \$500,000 must be audited regardless of the number of flats.
- Once the financial statements are available, MCs/managers must display a copy of such financial statements in a prominent place in the building for at least 7 consecutive days. MCs must also produce a copy of the financial statements to OCs at the first annual general meeting of the OC convened after such financial statements are available.
- If the financial statements are required to be audited, MCs/managers must display a copy of the financial statements and a copy of the accountant's report in a prominent place in the building for at least 7 consecutive days once the audited financial statements and the accountant's report are available. MCs must also produce a copy of the financial statements and a copy of the accountant's report to OCs at the first annual general meeting of the OC convened after the accountant's report is obtained.
- If an owner, the tenants' representative, a registered mortgagee or any person duly authorised in writing by an owner or registered mortgagee, the Authority or an authorised officer makes a written request, MCs must supply him with copies of the financial statements and, if applicable, the accountant's report, or a copy of the summary of income and expenditure within 28 days after the date on which the request is made.
- If an owner, a registered mortgagee or any person duly authorised in writing by an owner or registered mortgagee makes a written request, managers must supply him with copies of the books or records or the documents kept, the summary of income and expenditure or the balance sheet, the financial statements or, if applicable, the accountant's report within 28 days after the date on which the request is made.

Smart Tips

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|-----------|---|
| 1. | Under the Amendment Ordinance, "the amount of annual income and expenditure of the building" will substitute for "the number of flats in the building" to serve as the basis for determining whether the financial statements are to be audited. |
| 2. | Under the Amendment Ordinance, copies of documents may be supplied in hard copy or electronic form. At the express request of the requester and with the agreement of the requested person, the relevant financial documents may be supplied in electronic form. The requested person may impose a reasonable copying charge for supplying the requester (except the Authority and authorised officers) with the hard copy; and must not impose any charge for supplying the requester with the copy in electronic form. Financial documents that may be supplied in electronic form include copies of financial statements, accountants' reports, summaries of income and expenditure of OCs, budgets, accounting documents and policies of third party insurance. |





(IV)

Criminalising failure to keep certain documents concerning building management

New criminal sanctions

- The Amendment Ordinance provides for new criminal sanctions against failure to keep the following documents:
 - invoices, receipts, etc. referred to in accounting documents
 - procurement documents
 - certified minutes of MC meetings and general meetings of the OCs
 - proxy instruments and authorisation notices (regardless of whether the instruments/authorisation notices are valid)

Upon conviction, the relevant persons (including convenors of owners' meetings, participants of MCs and building management agents) are liable to a fine at level 4 (\$25,000).

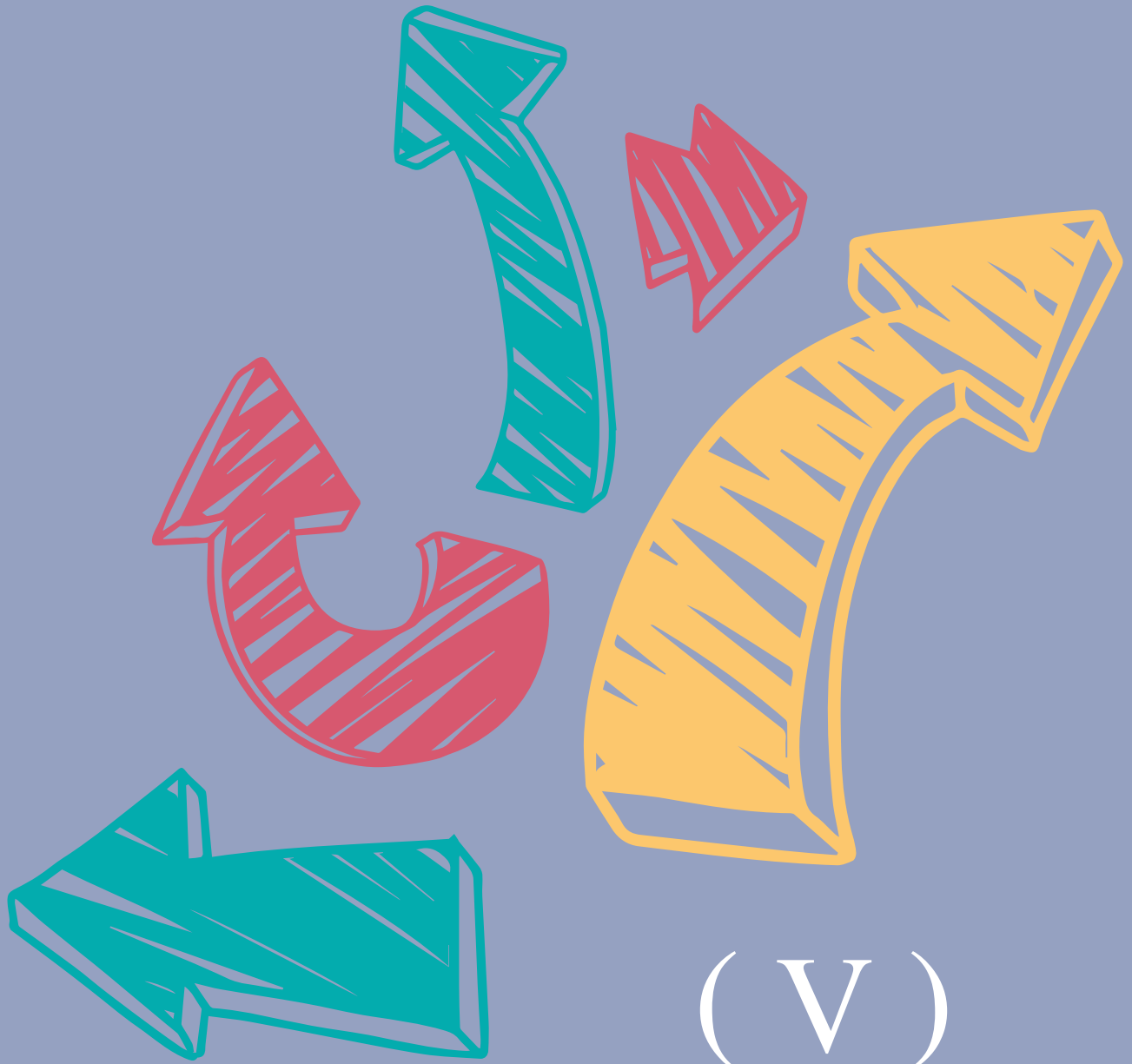
■ The relevant building management documents and their retention periods are as follows:

Document	Retention Period
Each bill, invoice, voucher, receipt or any other document referred to in the accounting documents	6 years after the date on which the document is obtained
Procurement documents (such as tender documents, copies of contracts, statements of account and invoices)	6 years after the date on which the procurement contract is entered into
Certified minutes for MC meetings and general meetings of the OCs	6 years after the date on which they are certified
Proxy instruments	12 months after the conclusion of the meeting
Notices of authorisation of natural persons by corporate flat owners for general meetings of the OCs	3 years after the conclusion of the general meeting

- The criminal sanctions against failure to keep certain documents concerning building management do not apply to owners' meetings if the documents have been obtained or the notices of meetings have been given by MCs before the Amendment Ordinance comes into operation.
- Regarding MCs, the relevant criminal liability is imposed on the **"accountable" participants of the MC** (instead of each participant of the MC). The "accountable" person is the person who has assumed responsibility as a participant of the MC at the time when the contravention of the legal provisions occurs.

Defence

- The Amendment Ordinance provides for a statutory defence to protect participants of MCs who have exercised due diligence in discharging their duties. The person charged for the relevant offence is entitled to be acquitted if (i) there is sufficient evidence for the person charged to raise an issue with respect to that matter, i.e. the person has exercised all due diligence that he ought to have exercised in the circumstances to prevent the commission of the offence; and (ii) the contrary is not proved by the prosecution beyond reasonable doubt.
- Under the existing section 29A of the BMO, members of the MC shall not be personally liable for acts done in good faith and in a reasonable manner. Such protection is extended, under the Amendment Ordinance, to secretaries and treasurers who are not members of the MC.



(V)

Transitional arrangements

New requirements relating to procurement shall not apply to procurement in progress. However, if no contract for the procurement has been made 3 years after the commencement of the Amendment Ordinance (i.e. on or before 12 July 2028), the new requirements concerning procurement shall prevail with effect from 13 July 2028.

This pamphlet aims to give an outline of the major amendments introduced by the Amendment Ordinance, the interpretation of which should be based on its original text. To read the Amendment Ordinance, please go to the website "www.buildingmgmt.gov.hk" or scan the following QR code:



Any members of the public who have questions about building management may contact the District Building Management Liaison Teams of the District Offices:

District	Tel. No.	District	Tel. No.
Central and Western	2119 5010	Islands	2109 4635
Eastern	3427 3469	Kwai Tsing	2494 4543
Kowloon City	2621 3406	North	2675 1719
Kwun Tong	2171 7465	Sai Kung	3907 0135
Sham Shui Po	2150 8175	Sha Tin	2158 5388
Southern	2814 5763	Tai Po	2654 1262
Wan Chai	2835 1999	Tsuen Wan	3515 5654
Wong Tai Sin	2324 1871	Tuen Mun	2451 3466
Yau Tsim Mong	2399 2155	Yuen Long	2470 1125

