

PROPERTY MANAGEMENT SERVICES AUTHORITY

Best Practice Guide on Prescribed Conditions on Licences

Guide No.: G7/2021

Effective Date: 23 July 2021

Preamble

For the purpose of enabling licensees¹ to comply more effectively and professionally with the guidelines set out in the code of conduct² entitled “Prescribed Conditions on Licences” (Code No.: C7/2021) (“Code”) issued by the Property Management Services Authority (“PMSA”) on 23 July 2021, the PMSA provides relevant guidelines in this best practice guide (“Guide”) pursuant to section 44³ of the Property Management Services Ordinance (“PMSO”). While licensees are encouraged to use their best endeavours to follow the Guide, failure to comply with the Guide will, however, not be regarded as a disciplinary offence referred to in section 4 of the PMSO.

Background

The PMSA may, pursuant to sections 9(3) and 10(3) of and section 2(5) of schedule 4 to the PMSO, impose on a licence those conditions including prescribed conditions set out in sections 10, 11 and 12 of the Property Management Services (Licensing and Related Matters) Regulation (“Regulation”) (see **Appendices 1 & 2**)⁴ that it considers appropriate.

The purpose of the Code is to provide licensees with practical guidance for complying with certain prescribed conditions. According to section 4 of the PMSO, a licensee commits a disciplinary offence if he / she contravenes a condition imposed on his / her licence.

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

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

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

⁴ A licensee should refer to the conditions printed on his / her licence in order to ascertain the conditions actually imposed on his / her licence.

Have to continue to be a suitable person to hold the licence and meet the criteria for holding the licence

- Prescribed condition: (1) A licensee has to continue to be a suitable person to hold the licence.
- (2) A licensee has to continue to meet the criteria for holding the licence.

Code: A(1) A licensee has to comply with the requirement set out in section 17(1)⁵ of the PMSO, section 14⁶ of and schedule 4⁷ to the Regulation to notify the PMSA, in the specified form, of any change in the information relating to compliance with the criteria for holding a licence and conditions imposed on a licence within 31 days after the change takes place.

A(2) The information relating to compliance with the criteria for holding a licence and conditions imposed on a licence includes—

- (a) criminal conviction (applicable to all licensees⁸);
- (b) whether or not a bankrupt, or having entered into a composition or scheme of arrangement with the relevant creditors (only applicable to director / partner / sole-proprietor of licensed PMC);
- (c) membership of recognized professional body (only applicable to licensed PMP (Tier 1));
- (d) minimum manning ratios specified by the PMSA (only applicable to licensed PMC); and

⁵ Section 17(1) of the PMSO provides: “A licensee must notify the Authority in writing of any change in the prescribed matters in the prescribed manner”.

⁶ Section 14 of the Regulation provides: “For the purposes of section 17(1) of the Ordinance, the prescribed matters any change in which must be notified by a licensee to the Authority and the prescribed manner of such notification are set out in Schedule 4”.

⁷ Schedule 4 of the Regulation provides: “Any change of the following matters must be notified by a licensee, within 31 days after the change takes place, to the Authority in writing in the forms specified by the Authority and accompanied by the supporting documents that the Authority may from time to time specify — (a) the particulars provided in a licence application form; and (b) the information relating to the compliance with the criteria for holding a licence and conditions imposed on a licence”.

⁸ For a licensed PMC, if there is change in criminal conviction of its director / partner / sole-proprietor, the licensed PMC has to notify the PMSA in accordance with section 17(1) of the PMSO and section 14 of and schedule 4 to the Regulation.

- (e) the licensed PMP (Tier 1) who has effective control of the provision of property management services (“PMSs”) by the licensed PMC (only applicable to licensed PMC).

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- a(1) The specified form mentioned in paragraph A(1) of the Code can be downloaded from the PMSA’s website www.pmsa.org.hk

Licensed PMCs have to display copies of the licences

Prescribed condition: A licensed PMC has to display a copy of its licence issued by the PMSA in a prominent place in each property for which PMSs are provided by it.

Code: B(1) The copy of licence displayed by a licensed PMC must include all information contained in the licence and the size must not be smaller than that of the relevant licence issued by the PMSA.

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- b(1) A licensed PMC should, so far as reasonably practicable, display the copy of the relevant licence in a prominent place at each building in the property for which PMSs are provided by it.

Licensed PMCs to appoint licensed PMP (Tier 1) to manage property

Prescribed condition: A licensed PMC has to appoint at least one licensed PMP (Tier 1) to manage each property for which PMSs are provided by it.

Code: C(1) If a licensed PMC appoints a licensed PMP (Tier 1) to manage more than one property, it has to ensure that the licensed PMP (Tier 1) has the experience to handle management work of such scale.

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- c(1) If more than one property is involved, a licensed PMC should, so far as reasonably practicable, deploy sufficient licensed PMPs (Tier 1) who have the experience to handle management work of the relevant scale, to manage the properties.

Displaying at the property the name and licence number of the licensed PMP (Tier 1) appointed

- Prescribed condition: (1) A licensed PMC has to display the name and licence number of the licensed PMP (Tier 1) appointed for the management of each property for which PMSs are provided by it in a prominent place in such property.
- (2) If a licensed PMP (Tier 1) is appointed by a licensed PMC to manage the relevant property, he / she has to display his / her name and licence number in a prominent place in the relevant property.

Code: D(1) A licensed PMC and a licensed PMP (Tier 1) appointed by the licensed PMC have to display the relevant name and licence number of that licensed PMP (Tier 1) legibly and in appropriate font size in a prominent place in the relevant property.

D(2) If there is a change of the licensed PMP (Tier 1) mentioned in paragraph D(1) of the Code, the licensed PMC has to, as soon as reasonably practicable, display the name and licence number of the succeeding licensed PMP (Tier 1) legibly and in appropriate font size in a prominent place in the relevant property.

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- d(1) The licensed PMC and licensed PMP (Tier 1) to whom the above mentioned prescribed conditions apply should, so far as reasonably practicable, display the name and licence number of the relevant licensed PMP (Tier 1) in a prominent place at each building in the relevant property.
- d(2) If the relevant licensed PMC has complied with the prescribed condition mentioned above, such condition can be regarded as having been complied with by the relevant licensed PMP (Tier 1). If the relevant licensed PMP (Tier 1) has complied with the prescribed condition mentioned above, such condition can be regarded as having been complied with by the relevant licensed PMC.

Licensees to state the name and licence number on documents

Prescribed condition: A licensee has to state the name and licence number of the licensee clearly and conspicuously on any letter, account, receipt, pamphlet, brochure, advertisement and other

documents issued in whatever form by or on behalf of the licensee in the capacity of a licensee.

Code: E(1) For the compliance with the prescribed condition mentioned above, a licensee has to state the name and the licence number legibly and in appropriate font size.

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- e(1) A licensee may adopt the following descriptions to specify the type of licence on relevant documents:
- (a) Licensed property management practitioner / Licensed PMP (P1-XXXXXX)
 - (b) Licensed property management practitioner (Tier 1) / Licensed PMP (Tier 1) (P1-XXXXXX)
 - (c) Property management practitioner licence / PMP licence (P1-XXXXXX)
 - (d) Property management practitioner licence (Tier 1) / PMP licence (Tier 1) (P1-XXXXXX)
 - (e) Licensed property management company / Licensed PMC (C-XXXXXX)
 - (f) Property management company licence / PMC licence (C-XXXXXX)

— END —

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

Prescribed conditions that may be imposed on a PMC licence

Sections 9(3) and 10(3) of the Property Management Services Ordinance provide that the Property Management Services Authority (“PMSA”) may impose conditions that it considers appropriate on a PMC licence, including the prescribed conditions set out in section 10 of the Property Management Services (Licensing and Related Matters) Regulation (“Regulation”). Such prescribed conditions are:

A licensee must—

- (a) continue to be a suitable person to hold the licence;
- (b) continue to meet the criteria referred to in section 6 of the Regulation for holding the licence;
- (c) display a copy of the licence in a prominent place in each property for which property management services are provided by the licensee;
- (d) appoint at least one licensed PMP (Tier 1) to manage each property for which property management services are provided by the licensee and display in a prominent place in such property the name and licence number of the licensed PMP (Tier 1) appointed;
- (e) state the name and licence number of the licensee clearly and conspicuously on any letter, account, receipt, pamphlet, brochure, advertisement and other documents issued in whatever form by or on behalf of the licensee in the capacity of a licensee;
- (f) submit to the PMSA, within the period of time specified by the PMSA, the information and documents that the PMSA may from time to time specify; and
- (g) not carry on the business of providing property management services under a name other than the name of the licensee stated on the PMC licence.

Prescribed conditions that may be imposed on a property management practitioner licence and provisional property management practitioner licence

Sections 9(3) and 10(3) of and section 2(5) of schedule 4 to the Property Management Services Ordinance provide that the Property Management Services Authority (“PMSA”) may impose conditions that it considers appropriate on a property management practitioner licence and provisional property management practitioner (“provisional PMP”) licence, including the prescribed conditions set out in sections 11 or 12 of the Property Management Services (Licensing and Related Matters) Regulation (“Regulation”) (as the case may be). Such prescribed conditions are:

A licensee must —

- (a) continue to be a suitable person to hold the licence (this condition is only applicable to a holder of PMP (Tier 1) licence or PMP (Tier 2) licence);
- (b) continue to be a suitable person to hold the provisional PMP licence (this condition is only applicable to a holder of provisional PMP (Tier 1) licence or provisional PMP (Tier 2) licence);
- (c) continue to meet the criteria referred to in the following provision for holding the licence —
 - (i) for a PMP (Tier 1) licence — section 7(1) of the Regulation; or
 - (ii) for a PMP (Tier 2) licence — section 8(1) of the Regulation ;
- (d) continue to meet the criterion referred to in section 9(1) of the Regulation for holding the relevant provisional PMP licence (this condition is only applicable to a holder of provisional PMP (Tier 1) licence or provisional PMP (Tier 2) licence);
- (e) complete on or before a date specified by the PMSA the number of hours specified by the PMSA, of attendance of or participation in, continuing professional development courses or activities that the PMSA may from time to time recognize or specify;
- (f) if the licensee is appointed by a licensed PMC to comply with the condition imposed on the PMC licence⁹ — display in a prominent place in the property

⁹ One of the conditions set out in section 10 of the Regulation that may be imposed on a PMC licence is: “a licensee must appoint at least one licensed PMP (Tier 1) to manage each property for which property management services are provided by the licensee and display in a prominent place in such property the name and licence number of the licensed PMP (Tier 1) appointed”.

for which property management services are provided by the licensee the name and licence number of the licensee (this condition is only applicable to a holder of PMP (Tier 1) licence);

- (g) state the name and licence number of the licensee clearly and conspicuously on any name card, letter, account, receipt, pamphlet, brochure, advertisement and other documents issued in whatever form by or on behalf of the licensee in the capacity of a licensee; and
- (h) submit to the PMSA, within the period of time specified by the PMSA, the information and documents that the PMSA may from time to time specify.