Prifysgol Cymru
Y Drindod Dewi Sant
University of Wales
Trinity Saint David

APPENDIX GA36d

LEVEL 7 ASSESSMENT SPECIFICATION

Student name:	**MAN KAM WA**	**Student ID number:**	**2429592**
Programme:	**DBA**		
Module:	**Research Principles and Philosophy**		
Module code:	**HKBM7017**	**Contribution to Overall Module Assessment (%):**	**100%**
Lecturer:	**Dr Chammy Lau**	**Internal Verifier:**	**Prof Peter Fong**
Assignment Title:	**Report**	**Word count (or equivalent):**	**7,500 words (+/- 10 words)**
Submission deadline:	**15 September 2025**	**Return date of provisional marks & written feedback:**	**15 October 2025**
Submission method:	All written assessments, where practical and possible, must be submitted via Turnitin unless otherwise instructed by the Lecturer. (Please DO NOT put this assessment specification into Turnitin or it will match many similarities with other students' submissions.) **Alternative submission method (if applicable):** **Late submission of the assessment will result in a late penalty mark:.** Work which is submitted up to 1 week late will be capped at 50% for the first attempt and will be awarded a mark of 0% for re-assessment. Late submission penalties may be lifted only if there is an approved extenuating circumstances claim. Work submitted more than 1 week late will be considered as a non-submission and will not be marked. The work may be considered as a submission for reassessment if offered by an Examining Board or if there is an approved extenuating circumstances claim.		
Academic honesty / referencing:	Academic honesty is required. In the main body of your submission you must give credit to authors on whose research and ideas your work is based. Append to your submission a reference list that indicates the books, articles, etc. that you have used, cited or quoted in order to complete this assessment.		

University of Wales Trinity Saint David

Programme: Doctor of Business Administration (DBA)

Module: Research Principles and Philosophy

Module code: HKBM7017

Lecturer: Dr Chammy Lau

Title: Effects on the Property Management Services Ordinance (PMSO) in Hong Kong

Student Name: Man Kam Wa

Student No.: 2429592

Contents

CH.	
1.	**Abstract**
2.	**Introduction**
3.	**The jurisdictions' pertinent laws of the common law**
4.	**The creation of laws governing property management**
5.	**The Ordinance for Property Management Services (PMSO)**
6.	**DMC and BMO compliance with PMSO**
7.	**Case study: PMSO-regulated contracting scenarios**
8.	**Conclusions**
	References

1. Abstract:

The objective of this study analyzes the issues and ramifications of Hong Kong's recently passed Property Management Services Ordinance (Cap. 626) (PMSO). A review of design, technique and strategy determine the features of the related laws of the property management in common law nations like Australia, Canada, United Kingdom and Hong Kong. The evolution of the related laws of property management and the PMSO's salient characteristics were then looked at in Hong Kong. Lastly, a case study illustrated the PMSO's possible issues.

Results in the jurisdictions of common law mentioned above, the services of the property management are subject to a variety of statutory restrictions. Limits on professional self-regulation and contract freedom are imposed by the PMSO which regulates the service providers of property management via a licensing system and introduces control over professional growth. Possible issues with the PMSO's implementation are also disclosed.

Limitations and implications for this research, four jurisdictions of common law are examined in this study. Contracts for the services of property management for these four jurisdictions are governed by their respective case laws and market dynamics. For implications, the services contracts of the property management are a new type of specialized contract due to this new licensing scheme in Hong Kong. This essay demonstrates how contract freedom and public good are related. It advances our understanding of how government policies are formulated in the field of property management.

2. Introduction

Cleaning, maintenance, and customer service are just a few of the building-related services that go under the umbrella of property management. Depending on the range of services needed, property management contracts have varying requirements. Because property management service contracts for various buildings have varying scopes and durations, there are essentially no restrictions on how these contracts can be arranged.

The fundamentals of contract formation, performance, and enforcement form the foundation of traditional contract theory in law. According to the principle, the contracting parties may freely exercise their right to enter into agreements. The state of the market encourages the most effective distribution of resources in the marketplace and maximizes individual welfare (Bracer, 1990). In the property management sector, freedom of contract is thought to give clients and service providers equal negotiating power and access to complete market data. if only they don't contravene the customs, public orders or law, it also permits both parties to agree on their own conditions. The parties' intention to engage in a legally binding agreement that will regulate their legal relationship is a crucial component of the services' contract property management.

Social control is unavoidable for essential services like property management. Hygiene, safety, building upkeep, and management are typically covered under property management laws. Many jurisdictions have passed legislation pertaining to property management. Here are a few examples: Taiwan's condominium law (Chang, 2015), New Zealand's Planning and Environmental Law (Davis, 1996) and the Energy Ordinance in 2011 (Milliner and Louise, 2017). The quality of property management services may be enhanced by legislation, but it may also influence the market and practices of property management, such as contract freedom.

Hong Kong recently passed the Property Management Services Ordinance (PMSO). Its objectives include: (1) granting licenses to the companies and practitioners of the property management included in the industry of the services of the property management; (2) regulating and overseeing the delivering the services of property management from the practitioners and the property management companies; and (3) addressing associated issues. Property management companies (PMCs), property management practitioners (PMPs), property owners and other stakeholders are worried about any potential ramifications of the PMSO's implementation because it is a new law of property management for Hong Kong.

Therefore, the following research questions guided the start of this study:

(1) Do other common law jurisdictions have comparable statutory restrictions on property management services?

(2) Do these legislative controls resemble the PMSO if the response to the previous consideration is in the affirmative?

(3) Could there be issues with the PMSO's implementation?

(4) What effects would those issues have on the market of property management if the response to the previous question is in the affirmative?

The study was carried out in three phases to address the queries. of order to determine the features of the related ordinances of property management in Hong Kong, a search and review procedure was first conducted. Also, the evolution of the related property management regulations and the PMSO's salient characteristics were assessed. Finally, a case study was illustrated the possible issues with the PMSO.

This paper's subsequent sections are organized as follows:

(1) A review and comparison of the pertinent laws are conducted for four jurisdictions of common law such as Australia, Canada, United Kingdom and Hong Kong.

(2) The evolution of Hong Kong's laws pertaining to property management is examined.

(3) A review of the PMSO's salient aspects is conducted.

(4) The links between the PMSO and the Building Management Ordinance (BMO) and the Deed of Mutual Covenant which two additional sources to govern the property management for buildings.

(5) A case study illustrated the relationships between the major stakeholders in the industry of the property management in Hong Kong.

3. The jurisdictions' pertinent laws of the common law

Four jurisdictions of the common law have laws governing the property management of buildings with numerous owners. An overview of their main laws pertaining to property management is given in Table 1.

These laws serve a variety of purposes. Some of them outline the responsibilities of building managers and owners and their representatives. Considering these laws, a number of professional associations pertaining to the property management, e.g. the Royal Institute of Chartered Surveyors (RICS) has suggested standards and guidelines to enhance the practice of property management. The Housing Health and Safety Rating System (England) Regulations in 2005 and Landlord and Tenant Ordinance in 1985 are cited in a guidance note released by RICS (2016) that provides practical advice regarding the health and safety for domestic premises.

Place	Relevant legislations related to property management
British Columbia (BC) of Canada	(1) Condominium Act of 1979 (2) Strata Property Act of 1998 and Regulations (BC province) (3) Real Estate Services Act of 2004
Hong Kong of China	(1) Building Management Ordinance (BMO) of 1993 (2) Property Management Services Ordinance (PMSO) of 2016
New South Wales (NSW) of Australia	(1) Residential Tenancies Act of 2010 (NSW) (2) Strata Schemes Management Act of 2015 (NSW)
England and Wales, UK	(1) Landlord and Tenant Act 1985 (2) Housing Health and Safety Rating System (England) Regulations 2005 (3) Management of Houses in Multiple Occupation (England) Regulations of 2006

Table 1. Australian, Canadian, Hong Kong, and UK laws that are pertinent

Certain laws and rules examine the caliber of property management service providers, such as the education and credentials of practitioners. Comparisons were made based on the belowing characteristics of the laws shown in Table 1: (1) Property managers must be licensed; (2) PMCs

must be licensed; (3) property managers must complete a certain amount of education; (4) owners' corporation (OC) formation guidelines must be followed; and (5) an authority supervising the provision of property management services must be established (see Table 2).

Possession of a property management license is required in each of the four jurisdictions of the common law. A standard was established for different PMP levels. Professional bodies that are accredited offer pertinent training. For example, standardizing financial report for maintenance in Hong Kong will help property owners monitor the costs of the building operation and maintenance and investigate the relationship between the level of outsourcing and property rental income (Lai et al., 2008). Usually, property management courses approved by the Hong Kong Council for Accreditation of Academic and Vocational Qualifications (HKCAAVQ) offers this kind of accounting instruction.

It should be mentioned that while property owners are free to choose whether to form an OC, all four jurisdictions support this practice. Specifically, the Canadian province of British Columbia and Hong Kong have each set up their own authorities to supervise the provision of property management services. A few typical issues with managing multiple-ownership buildings were identified in Harris' (2011) study on the laws in Vancouver, British Columbia, Canada.

The issues which are also prevalent elsewhere can be summed up as follows:

(1) At common law, it was feasible to combine private lots with joint ownership of common areas in multiunit structures, but the procedure was challenging and unclear.

(2) The joint use and upkeep of the common areas and facilities require certain regulations. However, the common law restricts the agreements' enforceability once the parties have transferred ownership.

Jurisdictions	Selected features of the main laws relevant to property management				
	Licencing requirement on property managers	Licencing requirement on PMCs	Prerequisite education requirement for being a licenced property manager	Guidelines on OC formation	Establishment of an authority overseeing property management services delivery
British Columbia (BC) of Canada	✓	✓	✓	✓	✓
Hong Kong of China	✓	✓	✓	✓	✓
New South Wales (NSW) of Australia	✓	✓	✓	✓	✗
England and Wales, UK	✓	✓	✓	✓	✗

Table 2. A comparison of the execution of property management services across many jurisdictions

Between 2012 and 2018, more new flats were authorized for construction in Australia. The Strata Schemes Management Ordinance was passed in the New South Wales in 2015 when it was recognized how important property management was for buildings with numerous owners. Shoory (2016) examined how newly constructed apartments affected the availability of land, housing costs, and rental income. However, in order to maintain the units' optimal operation over time, property management services are required.

A study on the management and operation of a residential building was conducted prior to this Ordinance being passed in the New South Wales in 2015 (East Hope and Randolph, 2009). The governance of OCs' decision-making process is an intriguing finding from that study. Because an OC can assign property management responsibilities to a stratum managing agent or a member of the strata committee under S13, the Strata Schemes Management Ordinance in 2015, this process becomes even more crucial. The decisions made by OCs will engage property managers more.

From rules on OC licensing requirements for managers of property and the creation of an entity to supervise the provision of services of property management, the laws of property management always result in modifications to the market's operations and standard property management practices. Legislative restrictions on the services of property management exist not only in Hong Kong, but also in other jurisdictions of the common law, albeit with slightly different specific circumstances, as the aforementioned review demonstrates in response to the first two research questions.

4. The creation of laws governing property management

The government will begin to investigate building management and upkeep issues when a city gets densely populated. One example is Hong Kong. The city has implemented a number of statutory restrictions on the administration of multiple ownership buildings. However, despite several laws being passed over the previous few decades, the building management issues have continued.

From the statistics of the Buildings Department in 2019 show that property owners delayed to follow the law when it came to unauthorized building activity. About 9.0% of the 400,000 statutory orders that were issued from 2000 to 2018 are still pending. The Home Affairs Department in 2011 launched a series of public surveys to determine public opinion regarding property management business regulation in light of these negative observations. The PMPs and the PMCs were regulated by the PMSO in June 2016.

There are other laws that enforce restrictions on property management issues than the PMSO. The BMO (Cap. 344) is another important piece of legislation pertaining to the property management in Hong Kong. In 1993, the Hong Kong Multi-storey Buildings (owners' incorporation) Ordinance was superseded (see Figure 1). To enable efficient building management, a legislative framework offered by BMO for the establishment of OC. Aims to support the OC's daily operations and compliance with pertinent legislative requirements, it lays out the OC's responsibilities and powers and its meeting. This BMO does not directly monitor the industry of the property management, in contrast to the PMSO. According to Chan (2002), the BMO had resolved a number of building management issues; however, more work was needed to reconcile the power of the residents by the committee of the management and the professional practice of property management.

The diverse nature of the industry of the property management makes regulation challenging. The building services engineers, facilities managers, building surveyors and others are among the experts in the property management sector. To control the morals and behavior of its members, each of them has its own professional association. Numerous studies have been conducted on self-regulation difficulties, specially, for the medical and legal domains (Onus, 1995; Alsop and Saks, 2003; Dent and Whitehead, 2013).

The PMSO's implementation may be welcomed by property owners since it can protect their investment by enforcing regulations in addition to the self-regulation of property management sector experts (Lind and Musing, 2012). Complex property management services come with high transaction costs, particularly in situations where regular tenant communications are required (Lam, 2012). Even worse, building accidents are frequently caused by management and upkeep. For example, poor safety standards and upkeep led to the Grenfell Tower fire in London, UK (Burgess and Quinto, 2018).

The government conducted a public survey to ascertain whether and how the industry of the property management can be appropriately regulated in the wake of several high-profile including an accident of building collapsing in 2010 and an accident of lift falling in 2013. Following the creation of an advisory council, the government proposed passing laws to control the industry of the property management (Buildings Department, 2019). Throughout the legislative procedures, the groups were asked to share their comments:

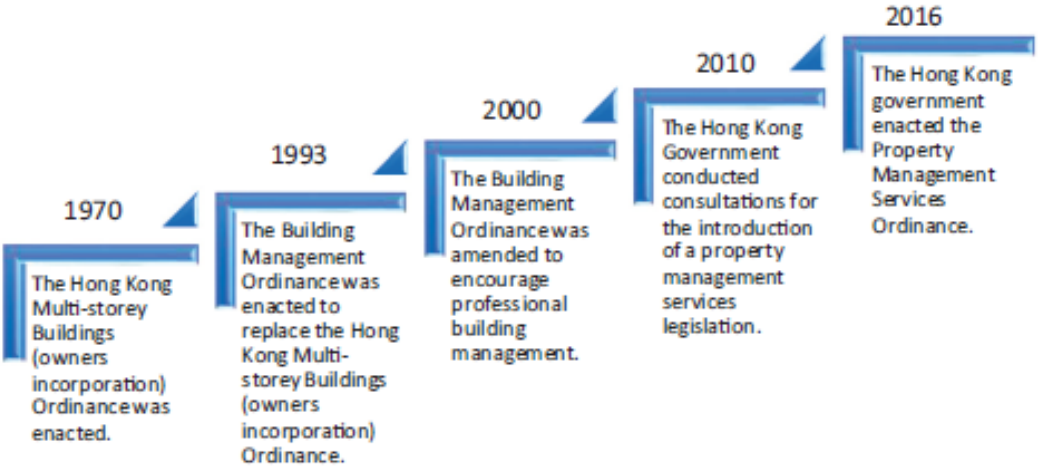

Figure 1. Timeline of Hong Kong's main laws pertaining to property management

(1) The Hong Kong Institute of Housing is a professional institute for people in Hong Kong who plan and execute housing services, such as the design, construction, maintenance and restoration for all types of buildings (http://www.housing.org.hk).

(2) The Housing Managers Registration Board is a legislative organization that oversees professional housing managers' registration, disciplinary actions against them, and other relevant issues (http://www.hmregistration.org.hk).

(3) The Royal Institute of Chartered Surveyors accredits a wide range of professionals in many types of building and construction industries globally. A broad range of building specialists are covered by this institute. The consultation process benefited greatly from the active participation of their stream of facility management (http://www.rics.org).

(4) The primary PMCs came together to form the Hong Kong Association of Property Management Companies (http://hkapmc.org.hk).

(5) The Hong Kong Institute of Facility Management was established by building experts are actively interested in facility management (http://www.hkifm.org.hk).

(6) Chartered Institute of Housing is established for professional housing management in the UK and has a sizable presence in Hong Kong. It actively advocates housing legislation before governments across the world (http://www.cih.org.uk).

(7) The Hong Kong Institute of Surveyors is established this local surveying professional organization in Hong Kong It encompasses a broad range of Hong Kong construction industry specialists. It’s division responsible for property and facilities management made a significant contribution to the consultation process (http://www.hkis.org.hk).

The transition from self-monitor licensing under the Property Management Services Authority's jurisdiction alarmed the professional associations. In actuality, Hong Kong has long had statutory bodies that regulate professions. According to applicable ordinances, the statutory bodies of each profession or trade, such as estate agents, insurance agents, etc. control these occupations.

The PMSO establishes a new balance relationship between the rights of all stakeholder. Before the PMSO was passed, property owners handled their properties due to their needs and the resources at their disposal. Yiu et al. (2006) define property management as a type of governance of property rights.

When maintaining a structure incurs significant costs, property management becomes even more crucial. For the benefit of the public, the owners of property will either pay more or give up their rights. There will also be restrictions on the freedom of the property management contract.

A PMC may choose outside contractors to meet their needs and enter into contracts with its employees as allowed by labor law. OCs may appoint PMPs and PMCs who possess the necessary training and qualifications. When there is no regulatory control over property management operations, PMCs may, typically in an attempt to save money, hire maintenance

contractors to handle duties like building care. Without a doubt, such contract independence may endanger the advantages of public for safety and health if building maintenance performed improperly. The point of view holds that the PMSO seeks to put the public interest ahead of property owners' rights and contract freedom.

Prior to the PMSO's introduction, there was a tendency for the public interest to trump property owners' rights and contractual freedom. The recognition of multiple building ownership in the 70s, the encouraging of self-monitor by the different types of the professional associations from the 80s to 90s, and the PMSO's licensing regulation in the 2010s were the three movements that drove the push for property management ordinance reform in Hong Kong as shown in Figure 1. Collectively, these movements influenced the laws pertaining to the services of the property management in Hong Kong.

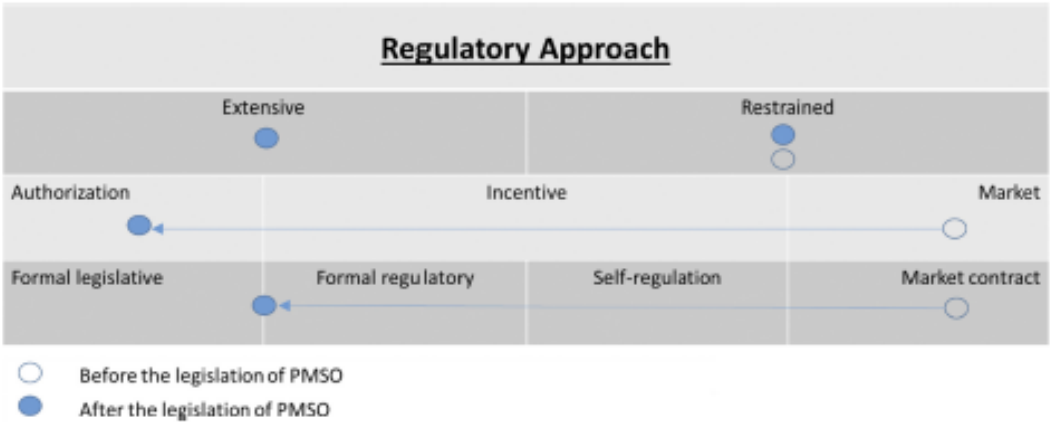

Figure 2. How property management practices are regulated

5. The Ordinance for Property Management Services (PMSO)

Incremental improvements had to be made possible by the legislative and institutional framework of the legislation reform on the property administration of multiple-ownership properties (Leave, 2015). In Hong Kong, these small adjustments were implemented, as Figure 1 shows. A new PMSO bill was proposed following a number of public surveys. This ordinance connection between PMCs and building owners is maintained under the PMSO. According to their contractual arrangement, an owner, is entitled to benefits of a contract executed on his behalf within the bounds of this agent's authority, even while he is still obligated by the terms of the agreement between him and his agent.

The PMSO governs the types of the services of the property management. It establishes a licensing organization for PMCs and PMPs (Buildings Department, 2019; The Hong Kong Legislative Council, 2014) as below:

(1) The management services;

(2) The environment management;

(3) The improvement and repair works;

(4) The financial management;

(5) The facility management;

(6) The human resources concerning employees engaged in property management; and

(7) The legal services.

The PMSO provides several techniques for managing PMCs and PMPs. For example, putting in place the licensing system (Parts 2, 3 of PMSO); creating the standards and codes of practice for the services of the property management (Parts 4, 5); and settling conflicts and investigating

complaints about ordinance violations (Parts 5, 6). The Property Management Services Authority (PMSA) has the power to approve and disseminate practical standards. The empowerment limits the contract freedom of the industry. The industry of the property management is always evolving due to both external economic concerns, such inflation and labor availability, and internal company needs, including customers' business development and budget modifications. Service providers' contracting discretion is limited by the license system, for example, in terms of hiring PMPs. The standards and code of practice limit operational flexibility and, in turn, the ability to contract out services from subcontractors or contractors.

Property owners and the services providers of property management may predict the difficulties of the proposed actions of the PMSA and the extent to which they may affect their daily operations. A service provider of property management considers the cost increase resulting from increased human resources when putting in a bid for a new service contract of property management.

The PMSA needs to win the trust of the industry through continued discussions. In recent, developers, insurers, and property owners have frequently clashed over property management difficulties. According to Lai et al. (2011), litigation was used to settle some disputes, such as those involving the wide variety of maintenance issues with building services (such as issues with fire safety, electrical safety, and elevator maintenance). Additional examples include the Building Management Ordinance, the Buildings Ordinance, and the Building Management (Third Party Risks Insurance) Regulation and the Occupiers Liability Ordinance.

Of the seven service categories covered by the PMSO mentioned above, the Hong Kong Bar Association (HKBA) is most concerned about legal services relating to property management (HKBA, 2019). Attorneys are concerning about how much power the PMSO will have over their practice.

It is anticipated that the PMSA would publish guidelines on industry best practices. For instance, a large number of companies for a PMP is appointed as a director is suggested in a consultation. Because of these rules, contracts for the services of the property management are a particular contract, similar to those for employment and insurance. Certain contractual duties in the services contracts of property management cannot be enforced due to the PMSO's enactment. For instance, PMC and PMP must have a license (S9, S10); PMC and PMP must adhere to PMSA's rules (Part 7). Since only authorized PMCs and PMPs are permitted to provide property management services, the PMSO makes many contracts for these services unlawful or unenforceable. However, when managing their properties, property owners and their managers must take into account how OC operates in the majority of multi-owner buildings. A lot of jurisdictions of the common law has the OC system, which functions under building and property management laws. By granting professional licenses and managing complaints against licensees, the PMSO goes one step further in governing property management.

The use of PMSO in the sector of property management is supervised by the PMSA. The S20 and S21, PMSO are essential to the openness, efficacy, representativeness and transparency of the PMSA was reviewed by the Hong Kong Legislative Council. The purpose of these reviews is to align the policy implementation of PMSA with industry realities. The "Principal Officials Accountability System" (Thynne, 2006) is comparable to this.

The PMSA is responsible for the registration, licensing and disciplinary regulation of the professional of property management in accordance with S18(1), PMSO. The judiciary court will nonetheless handle criminal and civil responsibilities in the same manner as it did prior to the PMSO's implementation. Therefore, the PMSA will handle claims regarding the negligence of PMPs or PMCs if there is a component of a disciplinary offense,.

In light of Meggitt and Somji's (2016) analysis of Hong Kong's mediation practice regulations, we assessed the evolution of the approaches of the regulation to the property management. In Figure 2, property management practices can be broadly categorized into two regulatory approaches: comprehensive and limited rules. Before the PMSO was passed, property management service providers were not subject to comprehensive professional regulations. Other pertinent laws, such as the Buildings Ordinance and the BMO, impose a minimum requirement on some practitioners involved in property management. These ordinances remain in force once the PMSO begins. This strategy is under the category of restricted ordinance. All PMCs and PMPs must function under a regulatory framework after the PMSO is implemented, which is supplemented by the relevant PMSA professional rules and existing legislation. The property management is a highly monitored profession upon the implementation of the PMSO.

According to Hopt and Steffek's (2013) research, the mediation profession should be regulated using a model that incorporates "authorization," "incentives," and "market." We assessed Hong Kong's degree of property management regulation using the same methodology. Regulations go into great depth on the PMC and PMP licensure requirements. The PMSA determines the qualifying requirements for licensees in its capacity as the licensing authority. This authorization model is common. The regulatory framework provides property owners with incentives or privileges to use the services offered by licensees, in accordance with Hopt and Steffek's (2013) "incentive" model. Property owners have two choices under the PMSO: they can hire certified PMCs without any incentives, or they can manage their properties themselves.

As a result, the services of property management do not employ the incentive model. The market model is being replaced by the authorization model. Before the PMSO was passed, there was a market for the services of the property management. There were no regulations to monitor the training and certification of property managers. The market of the property operates under this regulatory approach (Alexander, 2009) in most countries of the common

law. According to the model of the market-contract, the market for the services of the property management operates with the least level of government intervention. The bare minimum of public benefit ensuring the owners and the service providers of the property management are free to use their rights and enjoy the freedom of contract.

Property management professional associations engage in the market by publishing the code of practice (COP). The PMSO reduces the significance of contracts and market competitiveness by altering the commercial legal framework governing the property management sector. The government of the Hong Kong becomes more interventionist and concentrates more on stabilizing the economy and encouraging corporate activity via government initiatives (Lam, 2000).

The previous self-regulation by professional groups is not the same as the new licensing system of PMCs and PMPs. This system includes training for property management professionals as well as disciplinary procedures against PMPs and PMCs for any offenses listed in the PMSO. The BMO and the DMC are two important control tools in property management in addition to the PMSO. Their interactions are examined in the section that follows.

6. DMC and BMO compliance with PMSO

When it comes to properties with multiple owners, the property management of Hong Kong faces the problems as same as the other jurisdictions of the common law. Combining private properties with shared facility ownership proved difficult and unpredictable. There are rules governing the maintenance of the amenities and common areas. Common law, however, limits the agreements' validity when the parties transfer their interests. The aforementioned problems were attempted to be resolved through the usage of DMCs and management contracts assigning the managers of the property. The BMO and PMSO were passed as a result of the efforts being judged insufficient.

The DMC and the BMO are essential to the operation of the OC's system. A licensee has committed a disciplinary violation under s.4, PMSO if the court defines that the licensee has broken relevant BMO or DMC requirements. In order to allocate property rights in buildings with numerous owners, establish institutional arrangements for multiple-ownership of property assets, and carry out joint action or decision-making to handle the operations of the buildings difficulties, both contracts are necessary. The low rate of incorporation suggests that all owners may not have the opportunity or not desire to voluntarily incorporate, even though the Hong Kong government recommends property owners to create OCs and hire PMCs (Hastings et al., 2006).

The BMO was passed with the intention of addressing most property management issues by the duties of individual owners, the managers of the managers, and OCs. However, it turned out that the BMO was unable to manage all of those problems, especially since it had no authority over the property managers' standards.

Building developers draft and prepare DMCs. A DMC binds all future building owners, even though it was signed by the building developer and the initial buyer of any portion of the

building. It creates a framework for building administration and lays out the guidelines for controlling the rights and responsibilities of the co-owners of the building.

The PMSO is supposed for the improvement of the competences of PMPs via the PMSA's control, even though the BMO and the DMC clearly outline the responsibilities and roles of a PMC. The fundamental duties and expertise of property managers are covered by the BMO, DMC, and PMSO. A principal-agent relationship is comparable to the law relationship between owners of property and the managers of the property. In order to control how property managers serve property owners, the PMSO, BMO and DMC work together.

The fact that the DMC and the BMO are the source of management authority and responsibilities is unaffected by the PMSO's legislation. According to Merry's (2016) study, the BMO prevails in a conflict with the DMC. What will happen if the BMO or the DMC and the PMSO (and its subsidiary laws) conflict? Since the PMSO lacks an overriding clause, it is thought that neither the DMC nor the BMO have precedence over it. It seems questionable whether a law reform enacted to regulate the profession will shift the burden of proof on PMPs or PMCs when disciplinary action is initiated against them.

7. Case study: PMSO-regulated contracting scenarios

Given the features of the market of the services of the property management of Hong Kong, the PMSA must collaborate with PMCs of varying sizes and employ a variety of strategies, as seen in Figure 3. The majority of residential buildings is controlled by various PMC scales in Hong Kong, as shown in the following two scenarios, according to the Home Affairs Department's 2017 "Private Buildings in Hong Kong" database:

(1) Some large PMCs offer more than one of the seven types of the services of the property management (and have at least the number of PMPs required by the PMSO as employees). The majority of these PMCs are reputable businesses that are divisions of major real estate developers. Under a shared property management agreement, they provide services to the owners of property. The majority of HKAPMC members are such big PMCs. The PMSO's purview includes these PMCs.

(2) Some small PMCs are hired by owners of property providing one or more of the seven services types of property management; these PMCs may have no PMP or fewer PMPs than are necessary. Although these businesses are covered by the PMSO, their adherence to the pertinent standards must be examined and confirmed (PMSO Part 3 S15(2)(a)). Due of lesser service fees, small property owners typically choose to work with a smaller PMC rather than a larger one.

Figure 3. Contracting scenarios mapped out under the new PMSO regime

(3) In order to provide a variety of property services, PMCs frequently assign PMPs to property owners. At least one of the seven types of the services of property management is covered by the offerings. It is a typical form of property management agreement that is covered by the PMSO. While the services of the property management will eventually be outsourced, the administrative tasks are initially the responsibility of the seconded property manager.

Several foreign banks' offices in Hong Kong, including HSBC, Merrill Lynch, and Bank of America, use this strategy to obtain property management services. These banks' in-house property managers then oversee their subcontractors who provide property management services. However, in the event that subcontractors deliver subpar property management services, will the seconded property managers be held accountable? Will the PMC be held accountable if so? This need clarification after the legislation's specifics is known.

(4) A PMP property manager who works on a variety of the services of property management, encompassing one or more of the seven services types of property management, is hired by a property owner. Like the last scenario, this one is covered by the ordinance; however, there is no PMC in this case. While the services of the property management will eventually be outsourced, the manager of the property handles the administrative tasks initially. If the subcontractors deliver the services of a subpar property management following his handover, would the property manager be held accountable? Clarification is required once more.

(5) A property owner is paired with a PMC-employed property manager on a secondment basis. The manager of property provides facility management but does not come under any of the seven categories of the services of the property management. It seems that the ordinance does not apply to this case.

(6) To supervise the provision of services of the property management, including maintenance and repair from a contractor, a property owner employs a PMP. The ordinance addresses this issue, and PMC is not involved.

As shown in Figure 3, the PMC and PMP must take notice of the aforementioned scenarios in order to understand their potential obligations. The case study that follows provides additional evidence of how the PMSA and the court operate under the PMSO to determine who is liable for what among various building experts.

Building specialists including structural engineers and building surveyors are frequently involved in property management operations. This case study took place in a sports club building with a swimming pool that was constructed in the 1990s. The job of a property manager oversees building maintenance. The overall workflow of the project, from start to finish, is shown in Figure 4.

The property manager discovered certain floor flaws and chemicals that had seeped into the concrete slab. In the event that structural damage occurred, the property management consulted a structural engineer. Following some structural strengthening work, a building services engineer was engaged because the strengthening work had an impact on the building services installations. The division of labor between the building services engineer, structural engineer, and property manager is depicted in Figure 5.

Managing the facility, including property maintenance and repairs, is the responsibility of the property manager. The property managers will carry out their duties in accordance with the PMSA's code of practice. As the owner's agent, the property manager is also responsible for informing structural engineers and building services engineers of the necessary repairs.

In light of the PMSO, each of these three parties must consider their responsibilities and duties. The structural engineer's strengthening work and the building services engineer's related work may subject the property manager to joint and several liability.

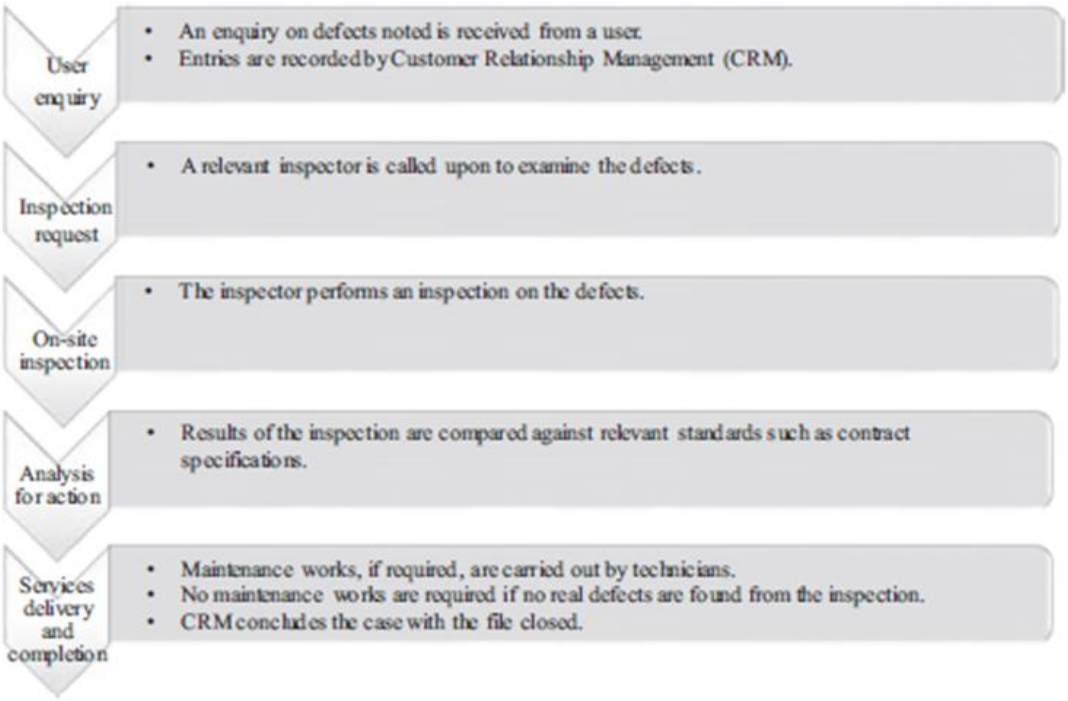

Figure 4. Workflow for the maintenance and inspection tasks

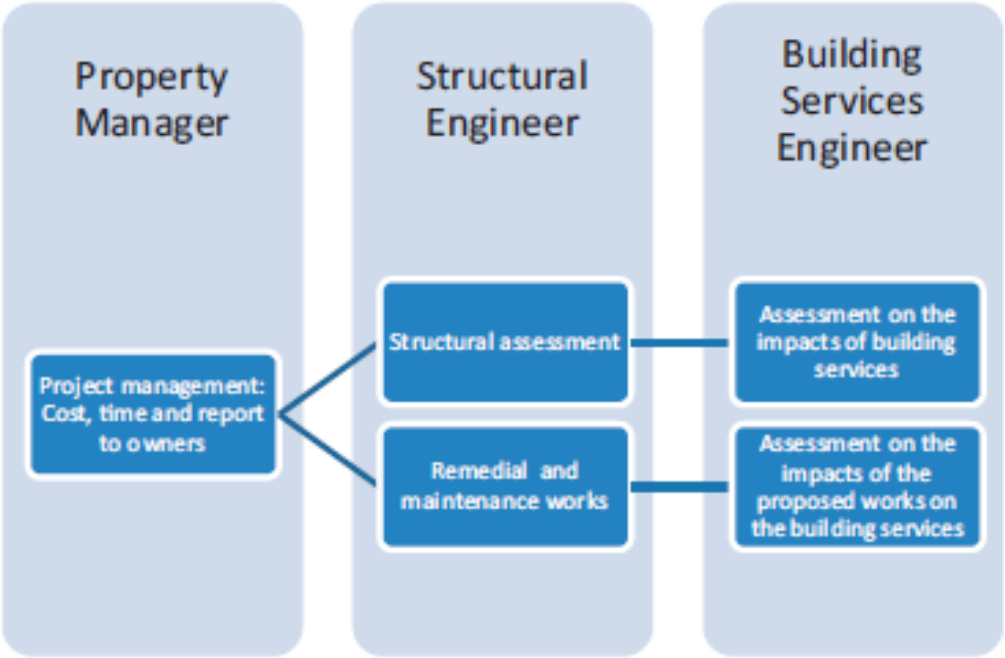

Figure 5. Assignment of responsibilities to the parties

If a property manager did not care that a reasonable manager of property would have taken in the same situation, he could be held accountable for professional negligence under tort law. In this regard, the court might consult with the appropriate professional associations, including the HKIH, HKIS and RICS to ascertain the acceptable standard of care.

The negligence of the property manager will be decided by the court. The disciplinary issues will be looked at further by the PMSA. The property manager may have engaged in professional misconduct or neglect if he holds a PMSO license (PMSO Part 1 S4(a)). He could have, for instance, neglected to provide the engineers a thorough briefing on behalf of the property owner or failed to disclose the chemical leak sooner before the structural slab was harmed. According to PMSO Part 5 S26(1), the property manager could be subject to a written or verbal warning, or in extreme circumstances, a license revocation order.

Property managers frequently hire surveyors, engineers, and contractors to handle maintenance tasks. When property management tasks are outsourced, the liability problem may come up

and is relevant to the PMSO. For instance, the structural engineer's work may subject the property management to liability. As the principal and agent, the property management and the engineer are both accountable, and the third parties may sue both for damages. In accordance with the law agencies, a principle may be liable for the tortious actions of their agent for three reasons. The principal chooses the agent in the first place and has superior tools to determine the agent's qualities, advantages, and disadvantages.

In the case of property management, it is applicable. As the property owner's agents, PMPs and PMCs are in the best position to offer advice to their principle. Second, it is reasonable for the owner, who will profit from the efforts of the managers of the property, to assume the agent’s risks going beyond their power since the owner has given the property managers the responsibility of performing property upkeep. Third, the agent has been granted extensive authority by the principal.

The additional risks associated with the principal-agent relationship were emphasized by Dalley (2010). The agent only oversees a subset of the company, such as employing a repair contractor. The extra risk is caused by a lack of control and different reasons for working. Additionally, the public will be in greater danger if there are more administrative and personnel engaged. This is particularly true for property management, such as when repair duties are outsourced with no sufficient supervision.

If the services of the question fit into one of the seven service categories specified in Schedule 1, PMSO, the relevant PMC and PMP will probably be liable under the PMSO. Because property managers will choose certified contractors to guarantee the quality of the work they outsource in the future, the PMSO improves the benefit to the general public.

As the PMP's employer, the PMC seems to be in a stronger position to transfer responsibility to the PMP through the employment contract and property management services agreement.

Nonetheless, the PMC is liable for the negligence of PMP due to vicarious responsibilities. The principle is usually held responsible when an agent operating on behalf of the principal commits a tort. Similarly, an employer is vicariously liable for a tort committed by an employee. Typical situations in property management include when a PMC employs a subcontractor or completes work and an employee of the subcontractor is injured on the job.

A subcontractor's driver was negligent and injured a third party in Chong Ngan Seng v. China Harbour Engineering Co Ltd (2013) HKEC 154. The driver's carelessness resulted in the primary contractor being held vicariously accountable. It is anticipated that the PMSO's provisions won't change these ideas. If an employee commits an offense, such as one involving discrimination or a breach of personal data privacy, the employer may be held liable in the common law states.

The PMSA will publish codes of conduct that include helpful advice on disciplinary issues in accordance with S5 of the PMSO. When building experts collaborate on a project of property management, these norms of conduct are crucial. PMPs and PMCs have additional responsibilities as a result of the codes of conduct. The majority of the operation and maintenance of buildings are partially carried out internally and partially outsourced, as noted by Lai et al. (2006). When the scope of work being outsourced is not clearly stated, disputes can occur (Lai et al., 2004). The contractor is payment for the completion of works by the in-house staffs when the projects of the scopes of the outsourced and the in-house overlapped as shown in Figure 6 (derived from Lai et al., 2006).

Because work scopes are unclear or overlap, the manager of the property could be accused of misconduct or carelessness under the PMSO (Property Management Services Authority, 2020).

To improve property management services, PMSA's study suggests regulating PMPs and businesses of the property management. Nonetheless, resources of enforcement of law are necessarily given the scale of the industry of the property management.

According to PMSA's study, PMPs and property management operations can be regulated to strengthen the services of the property management. However, considering the size of the business of property management, resources of enforcement of law are required.

The studies listed above suggest the following answers to the third and fourth research questions can be made in light of the PMSO's unusual and wide-ranging methodology, possible operational problems, and associated consequences on the property management industry: (1) There might be problems implementing the PMSO; and (2) These problems could have major consequences, particularly with regard to the legal ramifications for violators of the PMSO.

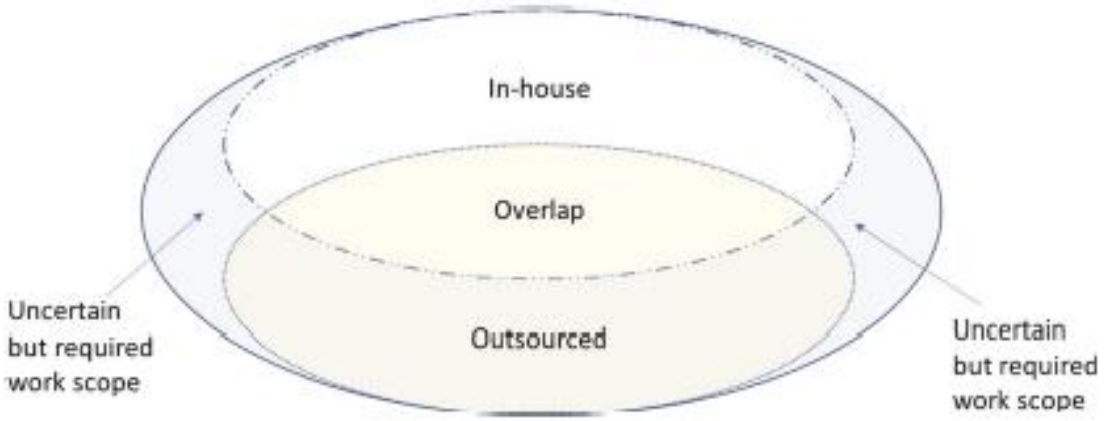

Figure 6. Uncertainty and overlap in the scope of work

8. Conclusions

Buildings with several owners need better the services of property management. Legislation has evolved to a typical tool for enhancing the services of property management of the common law countries including Australian, Canadian, United Kingdom and Hong Kong.

Poor property management and maintenance are mostly the fault of property owners according to earlier ordinances. Over the years, property management laws in Hong Kong and other nations of the common law have undergone significant changes. The shift from professional bodies self-regulating PMPs to licensing them is one example of this. The PMSO puts in place a licensing system for PMCs and PMPs that covers disciplinary actions, professional growth, and training.

The equivalent regulations of property management in the jurisdictions of the common law under review are not the same as the PMSO, which was recently passed. Due to the increasing trend of public benefit superseding property owners' rights and contract flexibility, the PMSO monitors property managers and other professionals of property management, e.g. building services engineers and surveyors regulated by PMSO. Under the PMSO, the differences between PMP and PMC tasks might not be completely clear. To avoid any moots or gaps in the integrated legal requirements, it ensures that the planned governances of the BMO, DMC, and PMSO are appropriately managed.

At present, the PMSO is in place, the service contracts of the property management will be regulated by the DMC, the BMO, and the PMSO. For issues outside the scope of the relevant laws, such as establishing a reasonable standard for professional property managers, reliance on case law or assistance from relevant professional bodies will be necessary.

The problems and consequences listed above are significant for the industry of property management, even if the PMSO is currently functioning at full capacity. Studies should be

conducted to ascertain whether the PMSO has any additional issues following the implementation of the other clauses. Furthermore, future new laws can be evaluated for appropriateness using the technique of the aforementioned study.

References:

Alexander, N.M. (2009), International and Comparative Mediation: Legal Perspectives, Kluwer Law International BV, New York.

Braucher, J. (1990), "Contract versus contractarianism: the regulatory role of contract law", Washington and Lee Law Review, Vol. 47, p. 697.

Buildings Department (2019), Monthly Digest, Buildings Department, Hong Kong, 2019, available at: https://www.bd.gov.hk/en/whats-new/monthly-digests/index.html (accessed 1 September 2025).

Burgess, G. and Quinio, V. (2018), Housing Digital Built Britain Network, Cambridge Centre for Housing and Planning Research, available at: https://www.cdbb.cam.ac.uk/files/3._position_paper_governance_maintenance_and_facilities_management_web.pdf (accessed 1 September 2025).

Chan, B.W. (2002), The History of Building Management in Hong Kong", Home Affairs Department, Hong Kong, available at: http://www.buildingmgt.gov.hk/file_manager/en/documents/8.pdf (accessed 1 September 2025).

Chang, Y. (2015), "Condominium law in Taiwan: doctrinal overview under the lens of information-cost theory", Asia Pacific Law Review, Vol. 23, pp. 89-120.

Dalley, P.J. (2010), "A theory of agency law", University of Pittsburgh Law Review, Vol. 72, p. 495.

Davis, B.H. (1996), "New planning and environment law in New Zealand; preliminary assessment of the resource management act 1991", Asia Pacific Law Review, Vol. 5 No. 1, pp. 102-27, Jun 1.

Dent, M. and Whitehead, S. (2013), Managing Professional Identities: Knowledge, Performativity's and the 'new' Professional, Routledge, London, Vol. 19.

Easthope, H. and Randolph, B. (2009), "Governing the compact city: the challenges of apartment living in Sydney, Australia", Housing Studies, Vol. 24 No. 2, pp. 243-259.

Harris, D.C. (2011), "Condominium and the city: the rise of property in Vancouver", Law and Social Inquiry, Vol. 36 No. 3, pp. 694-726.

Hastings, E.M., Wong, S.K. and Walters, M. (2006), "Governance in a co-ownership environment: the management of multiple-ownership property in Hong Kong", Property Management, Vol. 24 No. 3, pp. 293-308.

HKBA (2019), "Submissions of the HKBA on the consultation paper of the property management service authority on proposed licensing regime for property management companies and property management practitioners", available at:

https://www.hkba.org/sites/default/files/ Property Management-Licensing Regime for Property Management Companies and Practitioners.pdf (accessed 1 September 2025).

Home Affairs Department (2011), Report on the Public Consultation on Putting in Place a Regulatory Framework for Property Management Industry, Home Affairs Department, Hong Kong, available at: http://www.buildingmgt.gov.hk/pdf/ConsultationReport_2011.12__Final_Eng.pdf (accessed 2 September 2025).

Home Affairs Department (2017), The Hong Kong Government Database of Private Buildings in Hong Kong, The Home Affairs Department (Building Management), Hong Kong, available at: https:// bmis1.buildingmgt.gov.hk/bd_hadbiex/home.jsf?lang5tc (accessed 2 September 2025).

Hopt, K.J. and Steffek, F. (2013), Mediation: Principles and Regulation in Comparative Perspective, Oxford University Press, Oxford.

Lai, J.H.K., Yik, F.W.H. and Jones, P. (2004), "Disputes arising from vaguely defined contractual responsibilities in building services maintenance contracts", Facilities, Vol. 22 Nos 1/2, pp. 44-52.

Lai, J.H.K., Yik, F.W.H. and Chan, D.W.T. (2006), "Ageing building services in two residential buildings in Hong Kong", Proceedings of CII-HK Conference 2006: Ageing Building–Threats and Opportunities, 21 November, pp. 113-123.

Lai, J.H.K., Yik, F.W.H. and Jones, P. (2006), "Critical contractual issues of outsourced operation and maintenance service for commercial buildings", (2006) 17 (4), International Journal of Service Industry Management, Vol. 17 No. 4, pp. 320-343.

Lai, J., Yik, F. and Jones, P. (2008), "Expenditure on operation and maintenance service and rental income of commercial buildings", Facilities, Vol. 26 Nos 5/6, pp. 242-265.

Lai, J.H.K., Yik, F.W.H., Chan, K.T., Lee, W.L. and Chau, C.K. (2011), "Regulatory controls on building services works in Hong Kong", Construction Law Journal, Vol. 27 No. 6, pp. 459-79.

Lam, N.M. (2000), "Government intervention in the economy: a comparative analysis of Singapore and Hong Kong", Public Administration and Development: The International Journal of Management Research and Practice, Vol. 20 No. 5, pp. 397-421.

Lam, T. (2012), "Economic perspective on outsourcing of property management services", Property Management, Vol. 30 No. 4, pp. 318-332.

Lind, H. and Muyingo, H. (2012), "Critical reflections on the concept of maintenance", International Journal of Strategic Property Management, Vol. 16 No. 2, pp. 105-114.

Meggitt, G. and Somji, H. (2016), "The regulation of mediators in England and Wales, the United States and Australia-lessons for Hong Kong", Hong Kong Law Journal, Vol. 46, p. 445.

Merry, M.J. (2016), Building Management in Hong Kong, LexisNexis, Hong Kong, p. 242.

Mulliner and Louise, E.K. (2017), "Preparation for the Energy Act 2011 and minimum energy efficiency standards in UK commercial property", International Journal of Strategic Property Management, Vol. 21 No. 2, pp. 183-198.

Ogus, A. (1995), "Rethinking self-regulation", Oxford Journal of Legal Studies, Vol. 15 No. 1, pp. 97-108. Property Management Services Authority (2020), "Regulatory framework", Hong Kong, available at: https://www.pmsa.org.hk/en/regulatory/regulating-licensees/ (accessed 5 September 2025).

Property Management Services Ordinance (2016), Hong Kong, available at: https://www.elegislation. gov.hk/hk/cap626 (accessed 5 September 2025).

Royal Institution of Chartered Surveyors (RICS) (2016), Health and Safety for Residential Property Managers, RICS, available at: https://www.rics.org/globalassets/rics-website/media/upholdingprofessional- standards/sector-standards/real-estate/health-and-safety-for-residential-propertymanagers- 1st-edition-rics.pdf (accessed 5 September 2025).

Shoory, M. (2016), The Growth of Apartment Construction in Australia, Reserve Bank of Australia Bulletin, Reserve Bank of Australia, available at: http://www.rba.gov.au/publications/bulletin/ 2016/jun/pdf/bu-0616-3.pdf (accessed 5 September 2025).

The Hong Kong Legislative Council (2014), Legal Service Division Report on Property Management Services Bill, Legislative Council, Hong Kong, available at: http://www.legco.gov.hk/yr13-14/english/hc/papers/hc0509ls-53-e.pdf (accessed 5 September 2025).

Thynne, I. (2006), "Statutory bodies as instruments of government in Hong Kong: review beginnings and analytical challenge ahead", Public Administration and Development: The International Journal of Management Research and Practice, Feb, Vol. 26 No. 1, pp. 45-53.

Yiu, C.Y., Wong, S.K. and Yau, Y. (2006), "Property management as property rights governance", Property Management, Vol. 24 No. 2, pp. 87-97.