

SUMMARY OF KEY CHANGES TO THE BUILDING MAINTENANCE AND STRATA MANAGEMENT ACT (BMSMA)

GLOSSARY:

BMSMA means 'Building Maintenance and Strata Management Act'

BMSMR means 'Building Maintenance (Strata Management) Regulations'

Commissioner means 'Commissioner of Buildings'

MCST means 'Management Corporation Strata Title'

SP means 'Subsidiary Proprietor'

Explanatory note:

The first column sets out the relevant topics being addressed.

The second column sets out the scope of the existing provisions in the BMSMA.

The third column summarises the key changes to the BMSMA.

All items listed in the summary of key changes will come into operation on the date indicated in the Gazette dated 30 November 2018.

Except for items in S/No. 4, 27 and 31 which will come into operation at a later date.

S/No.	Topic	Existing Provision in BMSMA (Cap. 30C)	Summary of Changes
(A) Interpretation			
1	Definition of "Common Property"	<p><u>Section 2</u></p> <p>"Common property" in a strata development refers to an element in relation to any land and building shown in the strata title plan which is not comprised in any unit and is also used or capable of being used or enjoyed by occupiers of 2 or more units.</p>	<p><u>Amendments to Section 2</u></p> <p>(a) Make clear the definition of "common property" to include key structural elements (foundations, beams, columns) of the building.</p> <p>(b) Make clear that fire sprinkler and central air-conditioning systems are also part of common property to be maintained by the MCST.</p> <p>(c) Make clear that any conduit, pipe, cable, duct that services two or more lots but may be embedded within a lot is common property.</p> <p><i>Note: The amendments will make slabs (excluding underlayment) common property. However, for inter-floor leakage cases that are brought before the Strata Titles Boards, the presumption that the leak originated from the unit above will remain and the person who owns the unit or space above will continue to be responsible for the defect unless it is proved otherwise.</i></p>

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2	Definition of “structural defect” and “structural element”	<u>Section 2</u> Nil	<u>Amendments to Section 2</u> Introduce definition of “structural defect” and “structural element”.
(B) Changes impacting owner developer			
3	Developer’s Liabilities with Regard to Payment to the Maintenance Fund	<u>Section 17</u> The developer is given a 3-month grace period from the date of the Temporary Occupation Permit (TOP) to contribute towards the maintenance fund for units sold before TOP but not yet handed over to the purchasers.	<u>Amendments to Section 17(2)</u> For sold units that are not handed over to the purchasers, the developer will be given a 4-week waiver of the maintenance charges and will only have to start paying into the maintenance fund 4 weeks after the issuance of the first TOP in respect of a development.
4	Approval of Maintenance Charges before Sale Launch of a Development [To come into operation later]	<u>Section 18</u> The developer must seek the approval from the Commissioner prior to the collection of maintenance charges.	<u>Amendments to Section 18(1)</u> The developer will now be required to seek the approval from the Commissioner for the <u>maximum</u> quantum of maintenance charges. In addition, consequential amendments will be made to the Housing Developers Rules (HDR), Sale of Commercial Properties Rules (SCPR) and Executive Condominium Housing Scheme Regulations (ECHS Regs) to ensure that this approval must be obtained before the sale of any strata lot.

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5	Transfer of Balance of Moneys from Developer to the MCST	<p><u>Section 23</u></p> <p>When a MCST is constituted for a development, the developer is required to open a bank account in the name of the MCST and transfer the balance of moneys from the maintenance fund to this account. It is unclear whether this amount can be a deficit.</p>	<p><u>Amendments to Section 23(1) & (2)</u></p> <p>The developer has to transfer to the MCST's bank account moneys standing to the credit in the maintenance fund established by the developer. Pursuant to this amendment, the developer needs to transfer a <u>positive balance</u> to the MCST's bank account following its constitution.</p>
6	First Annual General Meeting of MCST and Subsidiary MC	<p><u>Section 26</u></p> <p>The timeline for the MCSTs (under the care of the developer) to convene the first annual general meeting upon receipt of written request from SPs comprising at least 10% of total number of lots in the development to do so, is not later than 6 weeks.</p>	<p><u>Amendments to Section 26(1) & (10)</u></p> <p>(a) The timeline for the MCSTs (under the care of the developer) to convene the first annual general meeting upon receipt of written request from SPs comprising at least 10% of total number of lots in the development to do so is extended from 6 weeks to 8 weeks.</p> <p>(b) Make clear that where the development is under a 2-tier MC scheme, the sub-MC is under a duty to hold a first AGM separate from the main MC within the stipulated timeline.</p>

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7	Chairing of First Annual General Meeting by Owner Developer	<p><u>Section 26</u></p> <p>The first AGM of the MCST could be chaired by the owner developer acting personally or through an agent.</p>	<p><u>Amendments to Section 26(2)</u></p> <p>The wordings “or through an agent” are removed from the provision relating to the chairing of first annual general meeting of the MCST. The owner developer or a “responsible officer” appointed by the developer has to chair the first AGM. ‘Responsible officer’ of the owner developer does not include the managing agent.</p>
8	Handing over of documents at first AGM	<p><u>Section 26</u></p> <p>There is no requirement to hand over documents relating to maintenance of prefabricated bathroom units.</p>	<p><u>Amendments to Section 26</u></p> <p>Include in the handing over of documents by developer at the first AGM the manufacturer’s manual on the maintenance of prefabricated bathroom units (if they are installed in the housing project).</p>
(C) Changes impacting management corporation and subsidiary management corporation			
9	Proxy System	<p><u>Para 17, First Schedule</u></p> <p>SPs can appoint a proxy to attend the general meeting of the MCST on his behalf. Currently, there are no restrictions on the number of SPs that 1 proxy can represent. In the BMSMA, there is also a sample format for the proxy form for MCST to follow as closely as possible.</p>	<p><u>Amendments to Para 17, First Schedule</u></p> <p>(a) A person may only be appointed as the proxy holder for either 2% of the total number of lots in the development or 2 SPs, whichever is higher.</p> <p>(b) If the proxy holds more than the cap referred to above, the additional proxy held is void. The proxy form is to be signed by the person appointing the proxy and the proxy. The format of the proxy form will be prescribed, and the proxy giver has the option to indicate their decision(s).</p>

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			<p>(c) All proxy forms are required to be documented and kept as MCST's records.</p> <p>(d) A list of the subsidiary proprietors who have appointed proxies and the names of the proxies present at the meeting is to be included as part of the minutes of the general meeting.</p>
10	Display of List of Eligible Voters for a General Meeting	<p><u>Para 7, First Schedule</u></p> <p>The list of persons eligible to vote at general meeting, which is to be displayed on the noticeboard, shall contain the names of the persons.</p>	<p><u>Amendments to Para 7, First Schedule</u></p> <p>The list of persons eligible to vote at general meeting, which is to be displayed on the noticeboard, shall contain the names and the addresses of lots owned by the persons.</p>
11	Method of casting vote at general meetings of management corporations and subsidiary management corporations	<p><u>Para 5, First Schedule</u></p> <p>Nil</p>	<p><u>Amendments to Para 5, First Schedule</u></p> <p>Specify that the method of voting in a general meeting is by the use of voting slips and the details are to be indicated in the voting slips.</p>

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12	Prohibiting any one person from holding more than one office bearer posts	<p><u>Section 55(3)</u></p> <p>A council member can be appointed to one or more of the offices of Chairperson, Secretary or Treasurer.</p>	<p><u>Amendments to Section 53</u></p> <p>A person cannot hold more than one office bearer post concurrently.</p>
13	Membership of the Council in a Mixed Development of a Single-Tier MCST	<p><u>Section 53</u></p> <p>The MCST will determine the members of the council at the Annual General Meeting, but in no case exceeding 14 natural persons.</p>	<p><u>New Sections 53A & 53B</u></p> <p>In a mixed-use development of a single-tier MCST, each property user group (e.g. residential / office / commercial) is automatically allocated one seat in the Council of the MCST.</p>
14	Consent of Nominees for Election as Council Members	<p><u>Section 53</u></p> <p>Currently, there are no requirements in the BMSMA on requiring consent from council nominees.</p>	<p><u>New Sections 53B & 54</u></p> <p>A person who is nominated for election as council member at the general meeting must give his/her consent prior to the election although the nominee does not need to be present at the general meeting.</p> <p>Consent in writing of the nominee has to be given to the secretary at least 48 hours before the meeting at which the election is to be held or given orally at the meeting.</p>

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15	Keeping of Strata Roll	<p><u>Section 46</u></p> <p>The strata roll shall be kept in the form of a book (either bound or loose-leaf) which shall contain one or more pages in respect of each lot in the subdivided building.</p>	<p><u>Amendments to Section 46(2)</u></p> <p>MCSTs can also keep strata roll in electronic form.</p>
16	Electronic Service of Notices	<p><u>Section 129</u></p> <p>The BMSMA from time to time requires service of notices of general meetings and other documents on SPs, council members, mortgagees of a lot, etc. Notices need to be served by posting it or sending it by facsimile or leaving it at his address or affixing the notice on the front door of his lot.</p>	<p><u>Amendments to Sections 46(3) & 129</u></p> <p>(a) The strata roll can include the email address provided by the subsidiary proprietor for the service of notices by the MCST.</p> <p>(b) Allow service of notice on a person by email.</p> <p>(c) Where a notice is served by way of email, the notice must also be posted to the SP's address for service.</p>
17	Service of Notices by Post	<p><u>Section 129(5)(b)</u></p> <p>Notice sent by pre-paid registered post is deemed to have been served on the person 2 days after the day the notice was posted.</p>	<p><u>Amendments to Section 129</u></p> <p>(a) Notice is deemed to have been duly served on the person by post:</p> <p>(i) on the 3rd working day after the day the notice or document was posted, if sent by pre-paid registered post;</p>

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			<p>(ii) on the 4th working day after the day the notice or document was posted, if sent by ordinary post.</p> <p>(b) Notice is deemed to have been duly served on the person by email when it becomes capable of being retrieved by the addressee from the server.</p> <p>(c) If the notice is served by email and post, then it is considered served based on which occurs first (service by email or service by post).</p>
18	Proceedings of General Meetings of the MCST or Subsidiary MC	<p><u>Para 1(1) & (4), First Schedule</u></p> <p>(a) Only the list of agenda items for the first AGM is prescribed in the BMSMA. The BMSMA does not prescribe a similar list of agenda items for subsequent AGMs.</p> <p>(b) Every motion tabled in the agenda of an AGM can only be amended if the general meeting decides by way of resolution to amend the motion.</p>	<p><u>Amendments to Para 1(3) & (4), New Para 3A & 10A, First Schedule</u></p> <p>(a) The necessary items to be included as part of the agenda of subsequent AGMs are specified.</p> <p>(b) Motions can be amended by way of resolution at a general meeting only if the amendment does not change the subject matter of the original motion.</p> <p>(c) The procedures on how a general meeting can be adjourned and resumed at a later date are set out.</p> <p>(d) The minimum mandatory information required to be recorded in the minutes of general meetings are specified.</p>

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19	Display of Minutes on Notice Board	<p><u>Para 3, Second Schedule & Para 1, First Schedule</u></p> <p>(a) The MCST is required to maintain a notice board if required by its bylaws.</p> <p>(b) The MCST is required to post the minutes of council meeting within 7 days after the meeting.</p> <p>(c) The MCST is required to include a copy of the minutes of the latest general meeting in the notice of any general meeting.</p>	<p><u>Amendments to Para 3(2), Second Schedule</u></p> <p>(a) MCST must maintain a notice board in the common area for display of notices, minutes and circulars.</p> <p>(b) The time frame to display the minutes of council meeting is extended from 7 days to 14 days after the meeting.</p> <p>(c) The minutes of any general meeting of the MCST or the sub-MC must be displayed on the notice board within 45 days after the meeting.</p>
20	Audio/ Virtual Conferencing for Council Meetings	Nil	<p><u>New Para 1A, Second Schedule</u></p> <p>Allow audio/virtual conferencing for council meetings subject to a council resolution and making it known in the notice of council meeting. This will allow any council member who cannot attend in person to participate in the meeting.</p>
21	Vacation of Office by Council Member	<p><u>Section 54(1)(e)</u></p> <p>A council member will vacate his office at the end of the next annual general meeting at which a new council is elected by the</p>	<p><u>Amendments to Section 54(1)(e)</u></p> <p>Every council member will automatically vacate their office at the end of every annual general meeting regardless of whether a new council is elected.</p>

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		management corporation or upon the election at a general meeting of another person to that office, if earlier.	
22	Insurance (Errors and Omissions) by MCST	<u>Section 71</u> Nil	<u>Amendments to Section 71(1)</u> Introduce duty for MCST to purchase 'errors and omissions' insurance for council members.
23	Types of Resolutions to be Passed	The type of resolutions required for certain acts is not expressly stated.	<u>Amendments to Sections 33(1), 34(2) & (4), 39(1) to (3), 59, new Sections 71(3A), and 85(1A) & (1B)</u> An ordinary resolution is to be passed in a general meeting of MCST for: (a) Executing a lease of part of common property for a period less than a year; (b) Approving the subdivision or amalgamation of lots; (c) Determining the amount of maintenance contributions for both the management fund, sinking fund, and additional levies; (d) Insuring any property not already required to be insured under the BMSMA; (e) Representing SPs by MCST in legal proceedings; and

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			(f) Impose restrictions on council of MCST.
24	Counting of Notice Period for the Purpose of BMSMA	<p><u>Section 2</u></p> <p>The notice period required to decide on a motion by a certain type of resolution is expressed in terms of “of which at least X days’ notice specifying the motion has been given”.</p>	<p><u>Amendments to Section 2</u></p> <p>Clarify the counting of the minimum notice period required to consider motions that are to be passed by each of the 6 types of resolutions.</p> <p>The period described as “of which at least X days’ notice specifying the motion has been given” is now expressed in terms of Xth day after a specified action.</p>
25	Improvements to the Common Property	<p><u>Section 29</u></p> <p>MCST has to be directed by a special resolution to install or provide additional facilities or make improvements to the common property for the benefit of the SPs constituting the MCST.</p>	<p><u>Amendments to Section 29(1)(d)</u></p> <p>‘Improvements’ to the common property is made clear to encompass additions and alterations to and erecting new structures on the common property, making a change in the use of the common property, and removal of common property, in relation to the duties of the MCST.</p>
26	Lodgement and Display of By-laws	<p><u>Section 32</u></p> <p>(a) By-laws made by the MCST are to be lodged with the Commissioner within 30 days after the by-laws are passed in order to have effect.</p>	<p><u>Amendments to Section 32(5) & (8)</u></p> <p>(a) The timeline for the lodgement of by-laws is extended from 30 days to 45 days from the passing of the resolution.</p>

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		(b) The MCST shall supply a copy of the by-laws which are in force, on receipt of a written application at a reasonable cost.	<p>(b) The lodgement must in a form and manner acceptable to the Commissioner.</p> <p>(c) MCSTs shall display the full set of by-laws on the MCST's notice board. They shall also make available the by-laws at the management office for viewing by SPs at no cost.</p> <p>(d) SPs may also request for a copy of the by-laws by paying a prescribed fee.</p>
27	<p>Usage of Management Fund for Social Activities and Seeking Legal Advice</p> <p>[To come into operation later]</p>	<p><u>Section 38</u></p> <p>Moneys in the management fund can only be disbursed for certain purposes, which is primarily for the purpose of maintenance and management of the common property.</p>	<p><u>Amendments to Section 38(3)</u></p> <p>Management funds can be used to:</p> <ul style="list-style-type: none"> (1) Organize social, cultural, educational or sports activity; (2) Engage legal services <p>The estimated expenses for item (1) and (2) mentioned above must be included in an annual budget and approved at the Annual General Meeting by an ordinary resolution.</p>
28	Payment of Any Income from Rental and Charges Derived from Common Property into	<p><u>Section 38(2)</u></p> <p>Nil</p>	<p><u>Amendments to Section 38(1)</u></p> <p>MCSTs can pay into its management fund the income from rental and car park charges derived from the common property of the development.</p>

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	MCST's Management Fund		
29	Powers of Management Corporation to Carry Out Work	<p><u>Section 30</u></p> <p>This Section lists out certain types of works the MCST may carry out in respect of a SP's lot.</p>	<p><u>Amendments to Section 30(2) and Section 37(4A)</u></p> <p>Where the MCST is satisfied that any improvements have been carried out in contravention of Sections 37(1) and (3) of the BMSMA, the MCST may by notice in writing give to the SP of the lot at the time (who may not be responsible for the contravention) requiring the SP to carry out and complete, at his own costs, such works. Should the SP fail to carry out the rectification work, the MCST may do so and recover the cost from the SP.</p>
30	Safety Equipment	<p><u>Para 5(3), Second Schedule (Prescribed By-law), BMSM Regulations</u></p> <p>Under the prescribed by-laws, a SP shall not be prevented from installing any structure or device that prevents harm to occupants.</p>	<p><u>New Section 37A</u></p> <p>With the amendment, SPs cannot be prohibited from installing safety equipment (e.g. safety grilles) meant to prevent harm to occupants. But the onus is on SPs to ensure that any such structure or device installed does not affect the uniformity of the building's appearance.</p>

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		These structures or devices could apply to safety grilles at windows and balconies. Nevertheless, a SP is required to seek prior approval from their MCST for such installations, to ensure that the structure or device to be installed does not affect the uniformity in the building's appearance.	<p>In this section, “safety equipment” means —</p> <p>(a) any of the following features to prevent people from falling over the edge of an outdoor-facing balcony or terrace or a window or door or an opening which is outdoor-facing:</p> <ul style="list-style-type: none"> (i) a window grille or screen; (ii) a balustrade, railing or fence; <p>(b) any device capable of restricting the opening of a window or door or an opening which is outdoor-facing;</p> <p>(c) any screen or other device to prevent entry of animals or insects on the lot;</p> <p>(d) an intruder alarm or monitoring system; and</p> <p>(e) any lock or other security mechanism that is designed to protect occupiers of the lot against intruders to the lot.</p>
(D) Powers of Commissioner			
31	Expanding the Commissioner's Monitoring Powers	-	<p><u>New Sections 126A and 126B</u></p> <p>(a) The Commissioner may appoint an Official Manager to manage the MCST during an emergency or critical situation, if the health and safety of the residents are threatened due to the lack of maintenance.</p>

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	[To come into operation later]		<p>(b) Request for appointment of an Official Manager is upon an application from SPs comprising at least 20% of the aggregate share value of the total lots or not less than 25% of the total number of lots.</p> <p>(c) The Official Manager will be appointed for any period not exceeding 15 months or till the next general meeting is due, where the new Council will be elected.</p>
(E) Strata Titles Boards			
32	Jurisdiction of the Strata Titles Boards (STB)	<p><u>Section 103</u></p> <p>Strata Titles Boards (STB) can only determine the validity of general meeting of the management corporation or subsidiary management corporation.</p>	<p><u>Amendments to Section 103(1)</u></p> <p>Allow STB to determine validity of council meeting or executive committee meeting held as well.</p>
(F) Offences			
33	Failure to Return Documents to Management Corporation	<p><u>Section 48</u></p> <p>It is a duty for any person holding on to the documents of the MCST to hand over the documents after being served notice of a council resolution requiring them to do so.</p>	<p><u>New Section 48(1A)</u></p> <p>Failing to hand over MCST documents will be an offence.</p>

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34	Contravention of STB's orders	<u>Section 120(2)</u> It is an offence to not comply with any STB Order relating to specific cases.	<u>Amendments to Section 120(2)</u> The failure to comply with all STB orders will be made an offence.
35	Enabling provisions for subsidiary legislation	<u>Section 136</u> Maximum penalties for certain offences under the regulations is \$5,000.	<u>Amendments to Section 136</u> Increase maximum penalties for certain offences relating to the maintenance of or incidents involving lifts and escalators under the regulations from \$5,000 to \$20,000 or imprisonment of 12 months or both.
36	Composition of offences	<u>Section 131</u> Maximum composition sum is \$2,000.	<u>Amendments to Section 131</u> Increase maximum composition sum from \$2,000 to \$5,000.
37	General penalties	<u>Section 128</u> Any person guilty of an offence for which no penalty is expressly provided is liable on conviction to a fine not exceeding \$3,000.	<u>Amendments to Section 128</u> The penalty referred to in Section 128 is increased from \$3,000 to \$10,000.