

**Administration's response to views submitted by various organizations
on the Buildings (Amendment) Bill 2007
(as at 13 February 2008)**

Abbreviations:	CC	Consumer Council
	DP	Democratic Party
	HKAPMC	Hong Kong Association of Property Management Companies
	HKBA	Hong Kong Bar Association
	HKCA	Hong Kong Construction Association
	HKCIEGU	Hong Kong Construction Industry Employees General Union
	HKGBCA	Hong Kong General Building Contractors Association Ltd.
	HKIA	Hong Kong Institute of Architects
	HKIE	Hong Kong Institution of Engineers
	HKIH	Hong Kong Institute of Housing
	HKIREA	Hong Kong Institute of Real Estate Administrators
	HKIS	Hong Kong Institute of Surveyors
	HKMGMA	Hong Kong Marble & Granite Merchants Association
	HKOC	Hong Kong Owners Club
	HKPSMAL	Hong Kong Professional Sign Maker Association Limited
	HKWWPA	Hong Kong Water Works Professionals Association
	LSHK	Law Society of Hong Kong

Part A: Views/concerns on proposals under the Bill

	Organizations	Views/concerns	Administration's response
(I) General views on the Bill			
1.1	CC DP HKAPMC HKBA HKCA HKGBCA HKCIEGU HKIH HKIA LSHK	<p>(a) These organizations expressed support for the proposed minor works control regime.</p> <p>(b) HKIA considers that the minor works control system will facilitate the public to carry out minor building works lawfully through simplified procedures to ensure building safety in Hong Kong.</p> <p>(c) CC supports the policy direction of improving efficiency and flexibility in introducing a minor works control system which takes into account the nature, scale, complexity and risk involved in different classes of minor works.</p> <p>(d) HKGBCA considers the control system helpful in increasing the number of registered contractors and speed up the demolition of unauthorized building works (UBWs).</p> <p>(e) DP suggests that when scrutinizing the legislation, the Legislative Council (LegCo) should examine the relevant subsidiary legislation concurrently to ensure that the classification</p>	<p>(a) – (d) The Administration noted the organisations’ support of the proposed minor works control system and will make reference to their views in finalising the details of the minor works control system.</p> <p>(e) We will provide details of the requirements to be stipulated under the subsidiary legislation for the Bills Committee’s reference. Taking into account the operational experience gained and the stakeholders’ feedbacks after the commencement of the legislation, the Buildings Department (BD) will review the new control system</p>

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		<p>arrangements conform to the actual situations. It proposes that after the legislation has come into force for half a year or one year, the Government should submit a report to LegCo on the operation of the relevant registration systems, the minor works classification system as well as the Household Minor Works Validation Scheme. It is hoped that following the enactment of the Bill, the Government will expeditiously introduce a voluntary building classification system and a bill on mandatory building inspection, so as to encourage building owners to voluntarily improve the management and maintenance of their buildings.</p>	<p>at an appropriate time after implementation.</p>
(II) Classification of minor works			
2.1	CC	<p>(a) Considers it important to ensure that the categories of minor works to be included under each class should be well defined and made specifically clear to household owners, so that they would not mistakenly employ the wrong person to carry out the works or fail to comply with any approval or notification requirement for certain classes under the new system.</p>	<p>(a) The BD has established a Working Group comprising members from professional institutes, trade associations and frontline minor works practitioners to map out the classification and specification of the minor works items. The proposed classification has been drawn up after careful and thorough discussion in the Working Group. Under our current proposal, the details of minor works will be clearly delineated in the schedule of the regulations to be made under the Buildings Ordinance (BO). Each item of minor works will be clearly defined in respect of its size, location, materials and loads to be supported etc. to ensure that the items can be clearly</p>

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			<p>understood.</p> <p>In order to facilitate the public to familiarise with the new control system, the BD will launch an extensive public education programme. The Department will collaborate with the Hong Kong Housing Society (HKHS) to provide advisory services and assistance to building owners and minor works practitioners in conjunction with HKHS' Property Management Advisory Centres at various districts. A hotline will be set up for public enquiries. Moreover, BD will issue tailor-made publicity leaflets and guidelines to help building owners to understand the classification of minor works and the channels to hire the appropriate professionals and contractors to carry out minor works. BD will publish advertisements through different media, hold press conferences, attend briefing sessions and set up consultation services for owners' corporations and building management companies. We will strive to ensure that household owners are well informed of the new enforcement regime.</p> <p>Moreover, the Registered Minor Works Contractors (RMWCs) can only carry out the minor works they are registered for. If they are approached by building owners to carry out minor works that they are not qualified to conduct, they should not accept the appointment and should advise the building owners the corresponding building professionals/registered contractors who are qualified to carry out such minor works items.</p>
2.2	HKAPMC	(a) Suggests clear definitions and description of works items in each class,	(a) Please refer to item 2.1 above

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		<p>in particular, the size, dimension and weight limitation and control on structures under Class III minor works.</p> <p>(b) Requests clarification on the classification of the following works items:</p> <p>(i) window frame/internal drainage pipeworks that may involve repair of external rendering or external wall tiles;</p> <p>(ii) replacement/repairing works of external facilities; and</p>	<p>(b) Under our current proposal, the detailed classification of minor works items will be stipulated in the regulations to be made under the BO.</p> <p>(i) Generally speaking, replacement of windows in households, which only involves sub-frames, will be classified as Class III minor works. If the replacement works involve mainframes, it will be Class II minor works.</p> <p>Mere replacement or repair of drainpipes is exempted works under section 41 of the BO. In the course of such repair or replacement, the concerned contractors can also handle the related reinstatement or touch up of external wall finishes.</p> <p>Repair of internal drainpipes above ground floor usually does not involve repair of external wall finishes.</p> <p>(ii) The classification of common replacement or repairing works of external facilities are as follows:</p> <ol style="list-style-type: none"> 1. As mentioned above, mere repair or replacement of drainage pipes at external walls will be exempted works under section 41 of the BO; 2. The replacement of projections such as small household canopies or drying racks will be Class III minor works; 3. The projection of supporting frames for common

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		<p>(iii) signboards erection.</p> <p>(c) Considers that upon receipt of</p>	<p>household air conditioners are Class III minor works. However, if the projection of supporting frames for air-conditioners from external wall is more than 600mm but not more than 750mm, it will be Class I minor works. Such installations are usually for large-scale air-conditioners for commercial use that are relatively large and heavy and will affect the loading of the buildings.</p> <p>(iii) The classification of a signboard will depend on its size and location. For example, for projecting signboards with a display area of not more than 10m², projecting from external wall not more than 4.2m and the thickness of which does not exceed 600mm, they will be designated as Class II minor works. The above covers commonly found shop-front signboards.</p> <p>A RMWC should be conversant to identify and advise a building owner before the commencement of works the corresponding class, type and item of minor works and whether he is qualified to carry out such works. Under the proposed legislation, a RMWC is not allowed to conduct any items of minor works that he is not registered for.</p> <p>RMWCs who are capable to carry out various classes, types and items of works could register for a number of works items and therefore will be able to carry out a combination of works items as a project requires.</p> <p>(c) BD will acknowledge minor works completion submissions and will</p>

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		<p>certificates from Class III RMWC certifying completion of minor works, the Building Authority (BA) should send an acknowledgement of RMWC's submission to the building owner concerned.</p>	<p>copy such acknowledgement to the building owners.</p>
2.3	HKBA	<p>(a) The proposed expanded list of exempted building works might be a matter of concern but it seems that the proposed expansion is reasonable.</p>	<p>(a) The proposed amendments to section 41 of the BO are to clarify the criteria for exemption of building works under the Ordinance.</p> <p>Concerning designated exempted works, the policy intent is to add flexibility to the control system such that building works can be designated as "designated exempted works" as circumstances warrant. We will maintain a close liaison with the building industry and consider if any additional items are required to be designated as exempted works.</p>
2.4	HKIH	<p>(a) Worries that the proposed Class II and III works may deviate too far away from the existing "dual control" system whereby BA and building professionals in the capacity of Authorized Persons (APs) will approve and endorse works. For instance, the extent of external wall repair varies from replacing the whole fascia to repairing patches of concrete spall. HKIH recommends that the Class II minor works that involve large scale repair and refurbishment projects like external wall repair should also be</p>	<p>(a) The Working Group on Minor Works Control System established under BD has thoroughly considered the nature and technical requirements concerning repair of non-load bearing external walls and agreed that Classes II and III registered contractors should be competent to carry out such works independently without the supervision by professionals.</p> <p>As such, it was proposed to designate the repair of non-load bearing reinforced concrete external walls not more than 3.5m high as Class II minor works and repair of non-load bearing brick/block external walls not more than 3.5m high as Class III minor works. The technical skills required for repair of small patches or substantial part of a non-load bearing wall should be similar. However if such</p>

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		<p>handled by the building professionals and are required to notify the BA. Notwithstanding, HKIH supports that Class III minor works can be exempted from handling by building professional and notification to the BA.</p>	<p>repair involves structural repair to major structures such as columns and load bearing walls of the building, they will be Class I minor works which require the supervision of an AP.</p> <p>As mentioned in item 2.1 above, the details of minor works will be delineated in the schedule of the regulations to be made under the BO. Each item of minor works will be clearly defined in respect of its size, location, materials and loads to be supported etc. to ensure that there will be no ambiguity.</p>
2.5	HKIS	<p>(a) <i>[clause 7]</i> All works that have geotechnical implications should not be classified as minor works. The appointment of registered geotechnical engineer for minor works is not henceforth necessary. The plans required to be submitted with the notice to carry out minor works are not "approved plans" and therefore cannot be made the basis for assessing compliance or contravention of regulations.</p> <p>(b) <i>[clause 18]</i> Approval of plans and occupation permits (OPs) are the fundamental elements of building control of general building works.</p>	<p>(a) We considered that some minor works involving geotechnical implications could be carried out under the simplified procedures with the supervision and coordination of APs and Registered Geotechnical Engineers (RGEs) because of their relatively lower complexity and safety requirements. They will be classified as Class I minor works items under our proposal. The appointment of RGEs for such works is necessary.</p> <p>As mentioned in item 2.1 above, the details of minor works will be delineated in the schedule of the regulations to be made under the BO. Each item of minor works will be clearly defined in respect of its size, location, materials and loads to be supported etc. to ensure that there will be no ambiguity.</p> <p>(b) Under the definition of “building” in section 2 of the BO, this definition includes the whole, or any part, of any building. We envisage that the vast majority of minor works will not involve the creation of a new building. However, there is a chance that some</p>

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		<p>Works that will result in a new building (which involves OP based on approved plans) should not be classified as minor works. The new provisions should be deleted.</p> <p>(c) <i>[clause 24]</i> It is considered desirable only to set out the principles for the categorization and classification of minor works in the Regulation while the many minor works items should be incorporated in a Code of Practice for regular updating.</p> <p>(d) <i>[clause 28(1) and (3)]</i> The new criteria that building works do not "bear any imposed load or dead load other than that due to their own weight" may be</p>	<p>minor works involve additions to existing buildings and may require the issuance of OPs. As such, it is necessary to amend section 21 of the BO to cater for such situation.</p> <p>(c) The list of minor works is a technical document, stipulating the detailed specifications of minor works.</p> <p>Updates and amendments would be made from time to time because of technological advancements or change in market situations. For example, the size and weight of commonly used air-conditioners may change in time. As a result, the relevant dimensions of minor works items relating to supporting frames for air-conditioners will require to be amended.</p> <p>In view of the above, the Administration is open-minded towards the suggestion that the list of the minor works items be promulgated in the form of practice notes or code of practice. However, we note that it was the view of the Bills Committee of the Buildings (Amendment) Bill 2003 that the schedule of minor works should be included in the legislation. We shall discuss further with the current Bills Committee.</p> <p>(d) The policy intent is for the furniture or fixtures such as kitchen cabinets or hanging rails within buildings to be exempted from the statutory control of the BO under section 41(3). We will examine if the proposed wordings should be modified to more clearly reflect</p>

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		<p>exempt needs clarification. The draft Schedule 5 of the Building (Minor Works) Regulation only designates those items of minor works that are comparatively too small in scale to be categorized as minor works in the new regime. The amended Section 41(3) has already set out the criteria for exempted works. There may be a need to "designate" other works that do not meet the criteria for exemption in Section 41(3) but are considered to be worthy of exemption, such as the installation of hanging cabinets in kitchens or hanger rails in bathrooms, the fixing of garden benches in roof gardens or sky gardens, the assembly of shelving partitions in offices, etc.</p>	<p>the policy intent.</p> <p>Please refer to item 2.3 above.</p>
2.6	HKIREA	<p>(a) Will those common household works like replacement of window frame or internal drainage pipeworks that may involve repair of external rendering or external wall tiles be classified as Class II works?</p> <p>(b) What should be the class of work in respect of those replacement or repairing works of external facilities (e.g. plumbing/drainage pipeworks)?</p>	<p>(a) – (b) Please refer to item 2.2 above.</p>

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		<p>(c) How to define the terms '<u>small</u> canopies' and '<u>medium-size</u> projecting signboards'?</p> <p>(d) Will there be any size limitation on those minor works including the installations of supporting frames for air conditioners, drying racks and small canopies?</p>	<p>(c) Under our current proposal, the detailed classification and specification of minor works items will be stipulated under the regulations to be made under the BO. Small canopies and medium-sized projecting signboards are general terms to describe the relevant common Class III and Class II minor works items in the examples of our publicity documents.</p> <p>Concerning small canopies, erection or alteration of any metal canopy projecting not more than 500 mm from external wall will be designated as Class III minor works.</p> <p>Concerning medium-sized projecting signboards, for projecting signboards with a display area of not more than 10m², projecting from external wall not more than 4.2m and the thickness of which does not exceed 600mm, they will be designated as Class II minor works.</p> <p>(d) Under the proposed minor works control system proposal, there will be limitation on the size of supporting frames for air-conditioners, drying racks and canopies that will be designated as minor works. The classification will be made according to their sizes, nature, complexity and risk to safety. Details are given in <u>Annex A</u>.</p>
2.7	HKWWPA	(a) Licensed plumbers are professionals specializing in works and processes relating to the installation, replacement	(a) Under the Waterworks Ordinance, a licensed plumber is a person licensed to construct, install, alter, repair, maintain or remove fire services or inside services, i.e. the water supply system.

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		<p>and alteration of the fresh water piping systems. The Bill as introduced by the Administration lacks clear definition on the drainage works. Suggests the Administration to provide professional training for licensed plumbers to allow them to specialize in piping and water works after passing relevant examinations and assessments.</p>	<p>Having reviewed the qualification requirements of licensed plumbers, BD notes that such plumbers hold the Craft Certificate in Plumbing and Pipefitting issued by the Vocational Training Council which has sufficient coverage over drainage works. In view of this, BD would recognize such qualification for registration as RMWCs to carry out drainage works which will be designated as minor works.</p> <p>Individual licensed plumbers, operating as a self-employed individual, may choose to apply for registration as RMWCs to carry out the Class III minor works items that are drainage works. Such applicants will only have to attend a short one-day course on statutory requirements and basic safety issues before registration.</p> <p>For a company applicant, its authorised representative(s) (who are licensed plumber(s)) will not be required to possess any additional qualification or to complete the top-up course before applying for registration as a RMWC for drainage works. However, the applicant is still required to demonstrate that he has adequate work experience in management and supervision of drainage works.</p>
2.8	Minor Works Concern Group *	(a) Supports the incorporation of the relevant trades in the legislation in the form of a schedule outside the main body of the principal legislation, so as to facilitate appropriate amendments to be made promptly in light of future developments in those trades.	Please refer to item 2.5(c).

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(III) Registration of minor works contractors			
3.1	CC	<p>(a) Supports the proposals of establishing a separate registration system and keeping a register of minor works contractors which will be useful in assisting household owners to find the appropriate person to conduct minor works for themselves and to confirm the status of a "claimed-to-be" registered person. The register should be easily accessible on the Internet.</p> <p>(b) For the sake of market transparency, any removal of contractor names or any disciplinary actions or prosecutions imposed on registered contractors should be made known to the general public.</p>	<p>(a) Relevant information of the minor works contractors will be included in the contractors' register to facilitate the public to appoint qualified contractors to carry out minor works. The register of the minor works contractors registered under the BO will be available at the website and offices of BD. The BD will also collaborate with the HKHS to provide advisory service to the public on the minor works control system. The registers of the registered professionals and contractors will be made available at the HKHS' Property Management Advisory Centres in various districts for easy inspection of the public. Building owners can also obtain advisory services from such Centres.</p> <p>(b) Under the minor works control system proposal, when the disciplinary board decides that a contractor should be removed from the relevant register after undergoing disciplinary proceedings, the name of the contractor will be removed in accordance with the provisions of the BO. The removal action will be published in the Gazette as well as BD's website. The name of the contractor will no longer appear in the register on the BD's website and other relevant documents.</p> <p>For other sanctions made by the disciplinary board such as reprimand or imposing of fines, we will explore appropriate means to disclose such information to the public.</p>
3.2	DP	<p>(a) To achieve deterrent effect, the proposed registered contractors system</p>	<p>(a) Under the proposed minor works control system, it will be required under the BO and its regulations for the minor works</p>

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		<p>must be strict, abuse-proof, and equipped with a specific mechanism for complaints and hearing as well as for open procedures.</p> <p>(b) Suggests setting up a database for "registered minor works contractors and works projects" to provide more information for small property owners.</p>	<p>contractors to satisfy the BA on their qualifications, competence and experience before registration. The detailed requirements will be promulgated through practices notes and publicity materials issued to the industry and the public. The registration requirements will be set at a level commensurate with the nature and risk level of minor works. This arrangement models on the extant arrangement for the registration of contractors under the BO. The objectives are to enhance transparency and ensure that only competent contractors are qualified to register under the BO to carry out building works.</p> <p>Under the proposed legislation, there will be provisions of disciplinary proceedings and offences against malpractices of contractors and professionals registered to carry out minor works. It is one of the statutory duties of such contractors and professionals to comply with the standards and requirements under the BO which serve to ensure building safety and health.</p> <p>The public can lodge complaints to the BD, whenever they note or suspect any irregularities or malpractices committed by persons registered under the BO. The BD will conduct investigation into the complaint cases. Disciplinary or prosecution actions will be taken if necessary.</p> <p>(b) Please refer to item 3.1(a) above.</p> <p>The records of the completed minor works will be uploaded to BD's computerised database of building records for inspection by</p>

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		<p>(c) Suggests the Government to consider implementing the penalty provisions only after at least 90% of the existing contractors, skilled workers or self-employed workers have been registered, and to examine whether it is necessary to provide a grace period of at least one year to allow property owners, owners' corporations and contractors to adapt to the newly established works classification system, and only to strictly enforce prosecution and met out penalties after it has accumulated sufficient experience in dealing with the complaints cases.</p>	<p>the public. The information will include the locations and items of minor works that have been completed as well as the names of the contractors, or professionals if applicable, who are responsible.</p> <p>(c) We have planned for phased commencement of the minor works control system. In the first phase, the provisions regarding registration of minor works contractor will come into effect. Before that, top-up courses will be arranged for the practitioners in order to ensure early completion of the courses and adequate time for registration.</p> <p>After an adequate number of minor works contractors have been registered under the new system, the remaining provisions of the minor works control system will come into effect.</p> <p>To ensure quality and safety of the minor works conducted, registered contractors have to bear the same responsibilities all the time. It is not appropriate for the offence provisions to come into effect at a later stage as this will encourage the erection of illegal structures and malpractices of registered contractors and professionals. In order to facilitate the contractors and the public to familiarise with the new control system, the BD will launch an extensive public education programme. We will collaborate with the HKHS to provide advisory services and assistance to practitioners and building owners in conjunction with latter's Property Management Advisory Centres at various districts. A hotline will be set up for public enquiries. Moreover, BD will issue tailor-made leaflets and guidelines to help practitioners and</p>

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			<p>building owners to understand the new control regime. The registered minor works contractors possess adequate experience and should be competent to conduct minor works in accordance with the stipulated requirements.</p>
3.3	HKAPMC	<p>(a) A comprehensive control system should be designed to regulate the level of capability, performance and conduct of RMWCs in the carrying out of minor works.</p> <p>(b) Certificates should be issued to RMWCs to facilitate identification and selection of contractors by members of the public.</p>	<p>(a) This is the intent of the minor works control system. The BD will conduct inspections and audit checks to ensure the standard of minor works conducted. The Department will stipulate suitable requirements for registration and renewal of registration. It will also act on complaints made by the public against registered contractors, and take disciplinary or prosecution actions as appropriate. We will also maintain a close liaison with the industry and review the system from time to time.</p> <p>(b) A registration certificate will be issued to each RMWC. We are exploring the format of such certificate so that it can be easily carried and clear in presentation so that members of the public who approach the RMWC can easily verify the registration information of the contractor.</p>
3.4	HKBA	<p>(a) A Building Authority warning notice registered with the Land Registry in respect of unauthorized work of a minor nature or the presence of such unauthorized work itself may give rise to unmeritorious and wasteful disputes in a sale and purchase situation.</p>	<p>(a) The issuance of warning notice against unauthorised building works under section 24C of the BO has been implemented since 2004. The proposed minor works control system will not bring about any change to the extant arrangement.</p> <p>We expect that with the introduction of simplified statutory procedures for the construction of small-scale building works, the number of unauthorized works of a minor nature will be greatly reduced.</p>

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3.5	HKIE	<p>(a) <i>[clause 7]</i> The Bill introduces a new section 4A stipulating a person shall appoint "one or more" authorized person, registered structural engineer and registered geotechnical engineer to carry out minor works. When shall "one" and "more" persons be appointed? Who determines the number of persons to be appointed? If more than one person is appointed, what is the demarcation of duties among them? The Bill is silent on the "regulations" stipulated in new section 4A under Clause 7. How could the amendment Ordinance be enacted without details of such related new regulations?</p>	<p>(a) It should be noted that in the context of the BO as amended by the Bill, building works include "minor works". In clause 3(c) of the Bill, "minor works" are defined as "building works designated in the regulations as minor works". Minor works are therefore a special category of building works. It is only when the person for whom the works are to be carried out decides to adopt a "simplified procedure" which complies with the "prescribed requirements" will they become the "prescribed requirement minor works". Otherwise, all minor works are still subject to the provisions in the BO that are applicable to building works. In other words, minor works may also be carried out according to the existing "approval and consent" procedures.</p> <p>Section 4(1) of the BO provides for the appointments and duties of APs, RSEs and RGEs in respect of building works. Since minor works are only a category of building works, section 4(1) applies to the APs, RSEs and RGEs who are appointed in respect of minor works that are to be carried out after having obtained the approval and consent from the BA under section 14(1) of the BO. Matters concerning these building professionals in respect of "prescribed requirement minor works" will be provided for in the proposed regulations to be made under the BO relating to minor works.</p> <p>Matters concerning the respective roles of these building professionals and who will be appointed in respect of different classes of prescribed requirement minor works will also be provided for in the proposed regulations.</p>

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3.6	HKIS	<p>(a) <i>[clause 7]</i> APs are the only persons competent to discharge the duties to ensure compliance with fire service requirements and town planning restrictions. Engineering consultants should not be made equally liable. The duty of the appointed person to supervise works should not involve supervision plans as they are not relevant.</p> <p>(b) <i>[clause 26]</i> To require the appointed person to carry out "alteration, rectification or reinforcement works" is improper and unfair. It must be the owner of the works who should be liable to rectification of any deficiency in safety.</p>	<p>(a) It is the Administration's intention that AP will be responsible to ensure compliance with fire service requirements and town planning restrictions and we will consider if further refinement of the Bill is required.</p> <p>Submission of supervision plans will be required for Class I minor works. Such requirements will be stipulated in the technical memorandum to be promulgated by the BA.</p> <p>(b) If the appointed person is engaged by a building owner to inspect his building works under the validation scheme, the appointed person should point out to the owner whether "alteration, rectification or reinforcement works" are needed to meet the safety requirements.</p> <p>The proposed section 39C(4) does not "oblige" the appointed person to carry out the works. However, if the owner of the relevant building works wishes to benefit from the validation scheme under section 39C(1), he needs to hire qualified persons to carry out the necessary works for him. It should be noted that the provision does not use "shall" which means a legal obligation.</p>
3.7	HKWWPA	<p>(a) The proposed registration fee should be reduced.</p>	<p>(a) Under the proposed minor works control system, the registration fees for RMWCs will be charged on a cost-recovery basis. This is in line with the current registration system for registered general building contractors and registered specialist contractors under the</p>

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			<p>BO. We strive to set the registration fees at a reasonable level.</p> <p>For instance, the registration fee for a Class III RMWC, operating as a self-employed individual, by virtue of his qualifications is around \$150 for three years (i.e. around \$50 per year) and that for a Class III RMWC, operating as a self-employed individual, by virtue of his experience is around \$300 for three years (i.e. around \$100 per year). For details of the tentative registration fees, please refer to the Annex C of the Development Bureau's letter to the Bills Committee dated 17 January 2008 (ref : CB(1) 609/07-08(01)).</p>
3.8	LSHK	<p>(a) <i>[clause 7]</i> There is no obligation on the AP to give a certificate that the works have been done to his satisfaction and in accordance with the Buildings Ordinance (Cap. 123) (BO) and the Regulations. This will cause title problems when the particular interest in the land comes to be sold. It would be the duty of the vendor to disclose that minor works had been done under the minor works control system and the purchaser would require evidence that the works comply with the BO. LSHK recommends a simple form be prescribed for issue by the AP that the works have been done to his satisfaction and comply with the order of the BA. It would be useful if this</p>	<p>(a) It will be stipulated in the regulations to be made under the BO that the registered professionals or contractors appointed to carry out minor works should certify the completion of such minor works. Certificates in specified form, together with prescribed plans/record plans showing the minor works as completed, should be submitted to BD. The BD will make available such information for inspection by the public. The BD will also provide clarifications concerning the minor works involved in case the public has any enquiries after inspecting the certificate and record plans.</p>

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		<p>document could be registered in the Land Registry.</p> <p>(b) <i>[clause 22]</i> There is no requirement in the clause - though there may be in the draft regulations - for a certificate of compliance with an order issued by the BA to be issued or registered. In (6) of the new section, LSHK suggests that "may" be amended to read "shall". The same comments about conveyancing practice and contracting out as were made in relation to the new Sections 4A and 4B also apply here.</p>	<p>(b) It is our plan that the BA will issue a letter of compliance or letter of withdrawal of order, as the case may be, upon satisfactory removal or alteration of the subject unauthorized minor works. This arrangement is consistent with that regarding other statutory orders under the extant BO.</p>
3.9	Minor Works Concern Group *	<p>(a) Has reservations on the concept of applying the "user-pays" principle to the registration fees and considers that users include not only the contractors but also the Government and the community at large.</p>	<p>(a) Under the proposed minor works control system, the registration fees for RMWCs will be charged on a cost-recovery basis. Please refer to item 3.7 for details.</p>
(IV) Validation scheme			
4.1	CC	<p>(a) It should be made clear to household owners what exemption conditions will apply, whether the validation scheme is mandatory or voluntary, and whether household owners who fail to comply with the validation procedures will have to face default statutory orders or have</p>	<p>(a) Requirements of the validation scheme will be stipulated in regulations to be made under the BO. Details as well as technical requirements of the validation scheme will also be covered in the technical guidelines produced for RMWCs as well as the public education and publicity materials for building owners.</p> <p>The validation scheme is voluntary. We do not intend to set a</p>

	Organizations	Views/concerns	Administration's response
		warning notices registered against their properties with the Land Registry.	deadline for building owners to join the validation scheme. Validated UBWs will not be subject to BD's enforcement actions if their safety conditions do not change. We will disseminate such information in our public education programme.
4.2	DP	(a) Suggests the Government to consider including the small planters that meet the prescribed specification into the validation scheme, so as to encourage the small property owners who have contributed to urban greening to retain and continue to use the previously unauthorized planters without facing any penalty as long as the planters meet the safety conditions.	(a) Most of the unauthorized structures for housing vegetations are metal flower racks which will easily become rusty in time. Besides, there are usually no proper drainage works for draining of waste water which causes nuisances and sanitary problems. In view of the above and to ensure public safety, the validation scheme will not cover existing unauthorized flower racks.
4.3	HKAPMC	(a) Details of the validation scheme should be promulgated in a Code of Practice or supplementary document.	(a) Requirements of the validation scheme will be stipulated in regulations to be made under the BO. Details as well as technical requirements of the scheme will also be covered in the technical guidelines produced for RMWCs as well as the public education and publicity materials for building owners.
4.4	HKBA	(a) <i>[clause 26]</i> The building or building works to be covered under the proposed scheme are not yet particularized, as they are to be prescribed by regulations. The Bills Committee should question the Administration on the implications of such a scheme on likelihood of enforcement action to be taken against	(a) The validation scheme will only cover three specified types of minor building works with their specifications stipulated in regulations. Please refer to item 4.3(a) above. Concerning the enforcement policy against UBWs that fall outside the proposed validation scheme, such policy will not be affected by the scheme and will remain unchanged

	Organizations	Views/concerns	Administration's response
		<p>building or building works that fall outside the proposed scheme. To what extent the enactment of the proposed scheme affects the Court's evaluation of enforcement risk to found a blot on title in litigation resolving a dispute between the vender and the purchaser of a property is a matter of concern.</p>	
4.5	HKIS	<p>(a) <i>[clause 26]</i> The validation is too wide open and could lead to abuse. As this is a transitional arrangement, there is not need to demand such complicated legislation involving another new term "prescribed buildings or prescribed building works".</p>	<p>(a) The policy in respect of the proposed section 39C is to provide for a legal framework in the principal ordinance and let the regulations to deal with the details, such as what kind of works will fall under the scheme under section 39C. The regulations will prescribe what the prescribed buildings and building works are for the purpose of the proposed section 39C. The expression "prescribed building or building works" refers to the kind of building works eligible for the validation scheme.</p>
4.6	LSHK	<p>(a) <i>[clause 26]</i> Having chosen a scheme for minor works which is based on prescribing certain less onerous statutory requirements to be complied with rather than exempting minor works from the BO altogether, the new Section 39C must follow similar lines. There are a number of difficulties with the new section as currently drafted in respect of the scope of enforcement and title problems.</p>	<p>(a) Under the new section 39C of the BO, after going through the procedures required in the section and the regulations to be made under the BO, the BA will not issue orders under section 24 or notices under section 24C merely on the ground that the subject UBWs were originally erected without approval and consent from the BA, i.e. it has contravened section 14(1). The building professionals or contractors appointed to inspect and carry out alteration, reinforcement or rectification works (as necessary) to the subject UBWs should certify that the subject UBWs are safe and are in compliance with the provisions of the BO, except BO s14(1), i.e. the UBWs have only contravened section 14(1) after such inspection and/or works.</p>

	Organizations	Views/concerns	Administration's response
			<p>At the same time, the BA needs to reserve his power to take action against such validated UBWs in case there is a change in the condition of the UBWs in future. The objective is to ensure that such UBWs are safe and will not present a danger to the public.</p> <p>The procedural requirements of the validation scheme will be stipulated in regulations to be made under the BO. The registered professionals or contractors appointed to inspect or reinforce such UBWs should certify the inspection or completion of reinforcement as required. The records of such certifications will be made available for inspection by the public. We envisage that the time taken to complete the inspection/reinforcement of the UBWs and to submit the required documents to the BD will be very short. The validation scheme shall not create any problems relating to land titles and conveyancing.</p>
(V) Penalties for contravention			
5.1	CC	(a) As the Bill provides for penalties if any person knowingly appoints an inappropriate person to carry out minor works for himself, it is therefore crucial for household owners to be equipped with the necessary information to help them locate the appropriate person to carry out minor works for them.	(a) Please refer to item 2.1 above.
5.2	HKIS	(a) <i>[clause 22]</i> Where minor works have	(a) The extant section 24 of the BO relates to building works

	Organizations	Views/concerns	Administration's response
		<p>been carried out in contravention of the BO, they should be subject to the same enforcement action applicable to all general building works under the extant section 24. If it is desirable to take enforcement action against building works for contraventions of draft plans or master layout plans under the Town Planning Ordinance (Cap. 131) in addition to contravention of the BO, these new provisions should be introduced in the existing section 24(1) instead.</p> <p>(b) <i>[clause 27(9)(c)]</i> The plans submitted with the notice to carry out minor works are not definitive and do not constitute BA's sanction. Therefore, there is no basis to assess deviation or divergence, as amendment plans and record plans are always available. This provision should be deleted.</p> <p>(c) <i>[clause 27(11) and (12)]</i> The extant section 17(1) involves conditions to be</p>	<p>(including minor works). The proposed new section 24AA relates to the “prescribed requirement minor works”. For details concerning the definitions of "minor works" and "prescribed requirement minor works", please refer to item 3.5(a) above.</p> <p>From the drafting point of view, it is more desirable to separately provide for matters relating to the prescribed requirement minor works in a new provision instead of to overburden the existing section 24.</p> <p>The BA will only issue order in respect of prescribed requirement minor works which have been or are being carried out in contravention of draft plans or master layout plans under the Town Planning Ordinance, but not building works which are not prescribed requirement minor works. Such policy intention is provided for under the proposed section 24AA.</p> <p>(b) It is our policy intention that it is an offence for the RMWC to carry out works which significantly deviate or diverse from the works shown in the plans submitted to the BA. We will consider if further refinement of the Bill is required to further clarify such intention.</p> <p>(c) Minor works may undergo the extant "approval and consent" procedures with conditions imposed under section 17(1) of the BO</p>

	Organizations	Views/concerns	Administration's response
		<p>imposed with approval or consent. As it does not apply to minor works and RMWC cannot carry out any building works requiring approval and consent, these provisions should be deleted.</p>	<p>and also RMWCs may be appointed for the carrying out of such works under the supervision of APs. Therefore, offences under section 40(2AB) and (2AC) of the BO should be amended to cater for such situation.</p>
(VI) Other legislative amendments			
6.1	HKIS	<p>(a) <i>[clause 25]</i> This is not relevant as RMWC are not involved with supervision plans.</p> <p>(b) <i>[Part 3 - general]</i> The new regime provides a simplified process for minor works. Administrative procedures should also be streamlined and many general provisions in the extant Building (Administration) Regulations (Sub. Leg. A, Cap. 123) should not be imposed on RMWC with the same force, particularly as the nature of works and procedure are different. This Part should be reviewed vis-à-vis the draft Building (Minor Works) Regulation.</p> <p>(c) <i>[clauses 39 and 40]</i> As minor works do not involve approved plans, the supply of approved plans to RMWC and their</p>	<p>(a) As mentioned in item 3.5 above, submission of supervision plans will be required for Class I minor works. Such requirements will be stipulated in the technical memorandum to be promulgated by the BA.</p> <p>(b) The person for whom minor works are to be carried out may still choose to follow the “approval and consent” system under BO section 14(1) to carry out minor works, and relevant provisions concerning building works will still apply to a RMWC who carries out minor works under the “approval and consent” system.</p> <p>(c) Only prescribed requirement minor works do not involve approved plans. The person for whom minor works are to be carried out may still choose to follow the “approval and consent”</p>

	Organizations	Views/concerns	Administration's response
		<p>keeping them on site are not relevant. The amendments should be deleted.</p> <p>(d) [clause 42] Where the Building (Administration) Regulations do not apply to "prescribed requirement minor works" which actually means "minor works", all preceding provisions in this Part will be unnecessary.</p>	<p>system under BO s14(1) to carry out the works, and relevant provisions concerning building works will also apply to a RMWC who carries out minor works under the "approval and consent" system.</p> <p>(d) For the definition of minor works and prescribed minor works, please refer to item 3.5(a) above. The B(A)R apply to minor works conducted under the extant "approval and consent" system but not prescribed requirement minor works. The new regulation 48 of the B(A)R provides that the Regulations do not apply in respect of prescribed requirement minor works.</p>

Part B: Other views/concerns on the proposed minor works control system

	Organizations	Views/Concerns	Administration's Response
(I)	Top-up courses		
1.1	HKAPMC	(a) Training courses must be comprehensive and should be conducted as soon as possible to ensure a workforce of Class III RMWCs will be available soon after passage of the Bill.	(a) Please refer to item 3.2(c) above.
1.2	HKCA	(a) Considers it critical to ensure that all Authorized Signatories of RMWCs fully understand their duties and	(a) The objective of the registration system of contractors under the BO is to ensure only competent practitioners are authorized to carry out building works. All applicants for registration as

	Organizations	Views/Concerns	Administration's Response
		<p>responsibilities under statutory requirements. Some sort of independent assessment may be meaningful to maintain a threshold for practitioners and to ensure that there is no compromise in safety and health to both the general public and the workers, whether it is general building works or minor works.</p>	<p>RMWCs will have to satisfy the registration requirements stipulated in regulations to be made under the BO and practice notes in respect of the qualifications and work experience.</p>
1.3	Minor Works Concern Group *	<p>(a) Has reservations on the concept of applying the "user-pays" principle to training fees and considers that users include not only the contractors but also the Government and the community at large.</p>	<p>(a) The Administration has been in discussion with various training institutions, including the Construction Industry Council Training Academy and the Institute of Vocational Education, on the arrangement of the top-up courses for minor works practitioners. In the course of discussion, we have stressed that the course fees should be set at a reasonable level. For instance, the tentative course fees for the short course for existing practitioners, operating as self-employed individuals for Class III minor works, is \$150. For details of the tentative course fees, please refer to the Annex B of Development Bureau's letter to the Bills Committee dated 17 January 2008 (ref : CB(1) 609/07-08(01)).</p> <p>We are continuing our discussion with the training institutes.</p>
(II) Interface between the proposed minor works control system and the Construction Workers Registration Ordinance (Cap. 583)			
2.1	HKCIEGU	<p>(a) Expresses concern about the impact of the Construction Workers Registration Ordinance (CWRO) on this Ordinance. Take the installation of a small</p>	<p>(a) Phase I Prohibition of the Construction Workers Registration Ordinance ("CWRO") that commenced on 1 September 2007 prohibits workers from carrying out construction works on construction sites unless they are registered under the CWRO.</p>

	Organizations	Views/Concerns	Administration's Response
		<p>household window air-conditioner as an example, under this Ordinance, the relevant works can be carried out by a Class III registered minor works contractor (RMWC) alone. However, under the CWRO, each registered skilled worker can only carry out the works of the particular trade that he is registered for, i.e. the glass of the window needs to be handled by a registered glazier, then the supporting frames be erected by a registered metal worker, and finally the air-conditioner be installed by a registered air-conditioning mechanic. In addition, CWRO requires a card reading device to be provided at the work site to verify the data stored electronically in the registration cards and the particulars and working records of workers to be submitted to the Registrar. These measures will for sure increase the time and cost for installing a window air-conditioner considerably. Such cases can easily be found and will definitely cause serious nuisance to the public.</p>	<p>The minor works trade has indicated no major difficulty in complying with the requirements in this phase. Under this phase, construction workers registered as “general workers”, “skilled/semi-skilled workers” or “skilled/semi-skilled workers (provisional)” under the CWRO can carry out works of any trade.</p> <p>For the remaining phase of Prohibition, designated trades in Schedule 1 of the CWRO can only be personally carried out by skilled/semi-skilled workers who have registered against the particular trades concerned. The Administration has been in consultation with the minor works trade and is prepared to review Schedule 1 of the CWRO for necessary modification to facilitate RMWCs to register as skilled workers under the CWRO. The remaining phase of Prohibition will only commence upon satisfactory resolution of the registration issue.</p> <p>There are provisions in the CWRO for principal contractors to provide card reading device on site and submit daily attendance records. These measures aim to help combat the hiring of illegal workers working on construction sites and resolve some of the wage disputes between contractors and workers. The Administration is working with the Construction Workers Registration Authority to consider measures to simplify the procedures in applying for exemption from provision of card reading device for minor construction works.</p>

	Organizations	Views/Concerns	Administration's Response
(III)	Measures to cover the liabilities and risks of RMWCs		
3.1	DP HKIH HKAPMC HKCA HKCIEGU HKGBCA HKOC	<p>(a) These organizations support the introduction of insurance plans to cover the liabilities of RMWCs or property owners.</p> <p>(b) DP considers that as far as the works involving APs are concerned, if a professional indemnity system is established, property owners can seek compensation from authorized professionals whose performance is not up to their satisfaction.</p> <p>(c) HKCA considers that the availability of insurance coverage for employees, workers, third party, personal protection and other liabilities must come in tandem to cover the risks in case of mishaps.</p> <p>(d) HKIH proposes that some form of "central insurance/indemnity pool" within the Buildings Department (BD) or insurance underwriters should be considered to cover the liabilities and risks of the RMWCs.</p> <p>(e) As penalties will be introduced under the minor works control system, HKOC strongly requests the Administration to require registered contractors or</p>	<p>(a) – (e) The Administration will encourage RMWCs and building owners to consider the need to secure insurance coverage for minor works through our public education campaign for the minor works control system. We have also been lining up the insurance and the building industries to exchange views and to facilitate the collaboration between the two parties, e.g. development of insurance products for minor works. In the recent meetings, the representatives of the insurance industry introduced to the minor works practitioners the insurance products available for them and the minor practitioners explained their practical difficulties in procuring insurance products. We will continue our liaison with the two parties with a view to addressing their concerns.</p>

	Organizations	Views/Concerns	Administration's Response
		<p>practitioners to take out professional indemnity insurance upon introduction of the system, lest their liability will be shifted onto the small property owners.</p>	
(IV) Publicity programme			
4.1	CC	<p>(a) Extensive consumer education should be undertaken to facilitate public understanding of the new system. CC can assist in providing information to consumers through its educational and information dissemination activities, i.e. Choice magazine.</p>	<p>(a) Please refer to item 2.1 in Part A above.</p> <p>We welcome and appreciate Consumer Council's offer to assist us in the promotion of the minor works control system. The BD will get in touch with the Council in due course.</p>
4.2	HKAPMC	<p>(a) Tailor-made technical guidelines should be produced for stakeholders, including property managers, to advise properties owners on the different categories of building works.</p>	<p>(a) Please refer to item 2.1 in Part A above.</p>
4.3	HKCA	<p>(a) Suggests that focused propaganda should be directed to smaller companies (owners and contractors) and their respective staff & workers. A simple to understand colour coded "tabulated compliance check lists" for various end users may be a useful tool to help public to understand the exact requirements under the new Bill.</p> <p>(b) BD should take the lead of coordinating</p>	<p>(a) The BD will issue technical guidelines to RMWCs (including smaller companies) which will cover statutory requirements, standard design and details and safety measures in respect of minor works so that the registered contractors when carrying out these minor works can make reference to the standard designs in the guidelines. User-friendly pamphlets will also be produced for building owners. Please refer to item 2.1 in Part A above. The suggestion on the format of publicity materials is noted and will be considered by the Administration.</p> <p>(b) The BD will conduct an intensive public education campaign on</p>

	Organizations	Views/Concerns	Administration's Response
		amongst related Government departments in the general dissemination of the respective responsibilities and liabilities of the building owners, contractors, and workers, etc., to avoid possible inaccuracy or incompatibility of requirements.	the minor works control system in collaboration with other government departments and organisations. We will strive to ensure accuracy and compatibility of the requirements.
4.4	HKMGMA	(a) Publicity programmes should be provided to small scale and self-employed practitioners to raise their awareness on occupational safety and liabilities.	(a) Please refer to item 2.1 in Part A above.
(V) Financial issues			
5.1	DP	(a) Suggests the Government to help property owners to apply for low-interest or interest-free loans or free grants under the various existing building maintenance loans and incentive schemes to participate in the Household Minor Works Validation Scheme so as to improve building safety.	(a) The existing Building Safety Loan Scheme provides loans to individual owners of private buildings who may wish to obtain financial assistance in carrying out maintenance and repair works to reinstate or improve the safety conditions of their buildings. Individual owners may apply for loans to carry out such works voluntarily or to comply with statutory orders, including building and slope repairs, maintenance and upgrading works on fire services installations, lift installations, electrical installations and gas risers, regular slope maintenance works and removal of UBWs. It will cover reinforcement works that may be required to be carried out under the proposed validation scheme.
5.2	HKCA	(a) Sees the need for BD to deploy dedicated additional resources to help	(a) The Administration will allocate adequate manpower and resources for the BD for the implementation of the minor works

	Organizations	Views/Concerns	Administration's Response
		stakeholders and the public understand the details of the proposed minor works control regime.	control system.
(VI) Implications on existing mechanisms			
6.1	HKIH	(a) Expresses concern on the responsibility to ensure the minor works control system is in compliance with the provisions of the relevant Deed of Mutual Covenant (DMC) (e.g. installation of air-conditioning frames at the external wall) and proposes that the building owners be required to consult their management companies or property management professionals to ensure compliance with DMC provisions.	(a) We will promote such concepts through our public education campaigns. For instance, in the technical guidelines for RMWCs, matters such as compliance with conditions in leases or deed of mutual covenant will be mentioned. Besides, tailor-made guidelines on minor works will also be issued to the general public and building owners which will contain such information reminding them their responsibilities, including civil liabilities under the deeds of mutual covenant.
6.2	HKPSMAL	(a) BD issues demolition order to all advertising billboards which approval had not been sought on the ground that they are UBWs. This had caused great annoyance to the industry. HKPSMAL suggests that owners may be allowed to retain their existing advertising billboards after submission of an annual inspection report furnished by a structural engineer certifying the safety of the advertising billboards.	(a) Signboards are projections over streets. Poorly erected and maintained signboards will pose risk to public safety. There has been no quality control and no formal approval from the BA during the construction process of unauthorized signboards. We consider it necessary to take enforcement action against such signboards to ensure public safety. With the introduction of the minor works control system, the construction of signboards can be done through simplified procedures which will be faster and more economical.

	Organizations	Views/Concerns	Administration's Response
6.3	LSHK	<p>(a) A breach of the BO and/or Regulations is generally a breach of the relevant Government lease. Is the Government intending to announce that re-entry will not be taken for cases which comply with the new scheme?</p> <p>(b) Another significant impact on conveyancing will come if a UBW on a vendor's property could comply with the new scheme if an AP was appointed. Achieving compliance under the new scheme (which might require rectification of the UBW) would take some time and would need a long completion period under the control of sale and purchase.</p> <p>(c) Is it intended that new scheme will apply to New Territories Exempt Houses (NTEH)? Has the impact on NTEH's been considered?</p>	<p>(a) The BO is a statutory scheme to enforce specific statutory requirements relating to building construction, safety and health and does not relieve a building owner from complying with the contractual terms of his lease, under which the land is held. The covenants in the lease are a separate matter of contract between the lessee and the Government, which a lessee is obliged to observe and comply with, and it is a matter for the Director of Lands to consider how to deal with any UBWs which may be in breach of the lease.</p> <p>(b) It is the responsibility of owners to keep their premises free from UBWs. We envisage that the time required to complete the inspection/reinforcement of UBWs and to submit the required documents to the BD under the proposed validation scheme will be very short.</p> <p>(c) The minor works control system (including the validation scheme) will not apply to buildings exempted under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121).</p>

* Member organizations of the Minor Works Concern Group are (# names of these organizations are available in Chinese only):

Hong Kong Plumbing & Sanitary Ware Trade Association	香港扎鐵商會#
Hong Kong Air-conditioning and Refrigerating Trades Workers General Union	香港泥水商協會#
Licensed Plumbers Association Limited	Hong Kong Marble & Granite Merchants Association
香港棚業商會#	Hong Kong Construction Industry Employees General Union
Hong Kong General Building Contractors Association Ltd.	Hong Kong Construction Sub-contractors Association
The Federation of Hong Kong Electrical & Mechanical Industries Trade Unions	Hong Kong Federation of E&M Contractors Ltd.
香港機電工程商協會#	香港機電業管理及專業人員協會#
Sign Association of Hong Kong	香港廣告業聯會#
香港華資廣告業商會#	香港專業廣告牌製作協會#
Hong Kong Plumbing General Union	Hong Kong & Kowloon Electrical Engineering and Appliances Trade Workers Union
電業承辦商協會#	Neosign Advertising Employees' Association

Annex A

Minor Works items	Maximum projection from external wall	Class of Minor Works
Supporting frames for air-conditioners	750mm	Class I
Supporting frames for air-conditioners	600mm	Class III
Drying racks	750mm	Class III
Canopies above entrances to buildings only	2m	Class I
Other canopies	500mm	Class III