

Buildings (Amendment) Bill 2007

Draft Revisions to the Bill

6. Appointment and duties of authorized person, registered structural engineer or registered geotechnical engineer

(1) Section 4(1) is amended by repealing “Every” and substituting “Subject to subsection (1A), every”.

(2) Section 4 is amended by adding –

“(1A) Subsection (1) does not apply in respect of ~~prescribed requirement~~ minor works commenced under the simplified requirements.”.

7. Sections added

The following are added –

“4A. Appointment of authorized person, registered structural engineer or registered geotechnical engineer: ~~prescribed requirement~~ minor works commenced under the simplified requirements”

(1) Where any minor works are to be commenced or carried out without the approval and consent of the Building Authority under section 14(1), the person for whom the minor works are to be carried out shall, if required by the regulations, appoint in respect of the minor works one or more of the persons specified in subsection (2) in accordance with as required by the regulations.

(2) The persons specified for the purposes of subsection (1) are –

- (a) an authorized person;
- (b) a registered structural engineer; and

(c) a registered geotechnical engineer.

(3) Subject to subsection (4), if an authorized person, a registered structural engineer or a registered geotechnical engineer appointed under subsection (1) is unable to act, whether by reason of the termination of his appointment or for any other reason, or is unwilling to act, the person for whom the minor works are to be carried out shall appoint in his place another authorized person, registered structural engineer or registered geotechnical engineer (as the case may be).

(4) Where an authorized person, a registered structural engineer or a registered geotechnical engineer appointed under subsection (1) is temporarily unable to act by reason of his illness or absence from Hong Kong, he may nominate another authorized person, registered structural engineer or registered geotechnical engineer (as the case may be) to act in his place for the period of such illness or absence.

4B. Duties of person appointed or nominated under section 4A

(1) A person appointed or nominated under section 4A(1), (3) or (4) shall, in relation to the ~~prescribed requirement~~ minor works commenced under the simplified requirements for which he is appointed or nominated, comply with the ~~prescribed~~ simplified requirements.

(2) Without affecting the generality of subsection (1), the person shall also –

(a) supervise in accordance with the supervision plan the carrying out of ~~the prescribed requirement~~ minor works commenced under the simplified requirements;

(b) supervise in the manner prescribed in the ~~prescribed~~ simplified requirements the carrying

- out of ~~the prescribed requirement~~ minor works commenced under the simplified requirements;
- (c) notify the Building Authority of any contravention of the regulations which would result from the carrying out of any works shown in the plan required to be submitted to the Building Authority in respect of the ~~prescribed requirement~~ minor works commenced under the ~~prescribed~~ simplified requirements;
- (d) ensure that –
- (i) fire service installations or equipment in relation to ~~the prescribed requirement~~ minor works commenced under the simplified requirements are provided in accordance with the Code of Practice referred to in section 16(1)(b)(ii); and
- (ii) the carrying out of ~~the prescribed requirement~~ minor works commenced under the simplified requirements does not result in the relevant minimum requirements under the Code not being complied with in respect of the fire service installations or equipment;
- (e) ensure that the carrying out of ~~the prescribed requirement~~ minor works commenced under the simplified requirements would not contravene –
- (i) any enactment; and
- (ii) any approved or draft plan prepared under the Town Planning Ordinance (Cap. 131);

- (f) if ~~the prescribed requirement~~ minor works commenced under the simplified requirements are carried out within a comprehensive development area of an approved or draft plan prepared under the Town Planning Ordinance (Cap. 131), ensure that the carrying out of the ~~prescribed requirement~~ minor works would not contravene the master layout plan approved by the Town Planning Board under section 4A(2) of that Ordinance; and
- (g) comply generally with this Ordinance.”.

9. Disciplinary proceedings for authorized person, registered structural engineer or registered geotechnical engineer

- (1) Section 7(1) is amended –
 - (a) in paragraph (b), by repealing “or”;
 - (b) by adding –
 - “(ba) render the person unfit for certifying any ~~prescribed requirement~~ minor works commenced or to be commenced under the simplified requirements;
 - (bb) make further certification of ~~prescribed requirement~~ minor works commenced or to be commenced under the simplified requirements by him prejudicial to the due administration of this Ordinance; or”.
- (2) Section 7(1A) is amended –
 - (a) in paragraph (e), by repealing the full stop and substituting a semicolon;
 - (b) by adding –

- “(f) has certified ~~prescribed requirement~~ minor works commenced under the simplified requirements that have been carried out in contravention of this Ordinance;
- (g) has supervised ~~prescribed requirement~~ minor works commenced under the simplified requirements that have been carried out in such a manner that they have caused injury to a person (whether or not while under such supervision);
- (h) has certified ~~in respect of~~ building works (other than minor works) as if it were minor works commenced under the simplified requirements~~that are not prescribed requirement minor works, anything that is required to be prescribed in respect of prescribed requirement minor works;~~
- (i) has supervised building works (other than ~~prescribed requirement~~ minor works) as if it were minor works commenced under the simplified requirements~~that have been carried out in contravention of section 14(1);~~ or
- (j) has not carried out his duties under section 4B(2)(d), (e) or (f) in respect of ~~prescribed requirement~~ minor works commenced under the simplified requirements.”.

(3) Section 7(2) is amended –

- (a) by repealing everything before “the disciplinary board may” and substituting –

“(2) Where, after due inquiry, the disciplinary board is satisfied that the authorized person, the registered

structural engineer or the registered geotechnical engineer has been convicted as described in subsection (1A)(a) or done an act described in subsection (1A)(b), (c), (d), (e), (f), (g), (h) or (i) or has not carried out the duties mentioned in subsection (1A)(j) in respect of ~~prescribed requirement~~ minor works commenced under the simplified requirements,”;

(b) in paragraph (b), by repealing “or”;

(c) by repealing paragraph (ba) and substituting –

“(ba) order that the authorized person, registered structural engineer or registered geotechnical engineer be fined –

(i) in the case of building works (other than minor works), a sum not exceeding \$250,000; or

(ii) in the case of minor works, a sum not exceeding \$150,000; or

(bb) order that the authorized person, registered structural engineer or registered geotechnical engineer be prohibited from certifying any ~~prescribed requirement~~ minor works commenced under the simplified requirements, either permanently or for such period as the disciplinary board thinks fit.”.

(4) Section 7 is amended by adding –

“(3A) The amount referred to in subsection (2)(ba) and any costs of inquiry ordered to be paid under subsection (3) are recoverable as a debt due to the Government.”.

13. Section added

The following is added immediately before section 9A –

“9AA. Appointment and duties of prescribed registered contractors: minor works

(1) A person for whom minor works are to be commenced or carried out shall appoint a prescribed registered contractor as required by the regulations to carry out the works.

(2) If a prescribed registered contractor appointed to carry out minor works is unwilling or unable to act, the person for whom the minor works are to be carried out shall appoint in his place another prescribed registered contractor who is qualified to be appointed under subsection (1).

(3) A prescribed registered contractor appointed to carry out minor works commenced ~~{otherwise than prescribed requirement minor works}~~ under the simplified requirements shall –

(a) provide continuous supervision in relation to the carrying out of the minor works in accordance with his supervision plan;

(b) notify the Building Authority of any contravention of the regulations which would result from the carrying out of the works shown in the plan approved by the Building Authority for the minor works; and

(c) comply generally with this Ordinance.

(4) A prescribed registered contractor appointed to carry out ~~prescribed requirement~~ minor works commenced under the simplified requirements shall, in relation to the ~~prescribed requirement~~ minor works, comply with the ~~prescribed-simplified~~ requirements.

(5) Without affecting the generality of subsection (4), a prescribed registered contractor appointed to carry out ~~prescribed~~

~~requirement~~-minor works commenced under the simplified requirements
shall also –

- (a) provide continuous supervision in relation to the carrying out of the ~~prescribed requirement~~-minor works commenced under the ~~prescribed-simplified~~ requirements;
- (b) notify the Building Authority of any contravention of the regulations which would result from the carrying out of the works shown in the plan required to be submitted to the Building Authority in respect of the minor works commenced under the ~~prescribed-simplified~~ requirements; and
- (c) comply generally with this Ordinance.”.

15. Disciplinary proceedings for contractors

(1) Section 13(1) is amended –

- (a) by repealing “or a registered specialist contractor” and substituting “, a registered specialist contractor or a registered minor works contractor”;
- (b) in paragraph (b), by repealing “or”;
- (c) in paragraph (c), by repealing the full stop and substituting a semicolon;
- (d) by adding –
 - “(d) render the contractor unfit for certifying or carrying out ~~prescribed requirement~~-minor works commenced under the simplified requirements;
- (e) make further certification of or carrying out ~~prescribed requirement~~-minor works commenced under the simplified requirements by the

contractor prejudicial to the due administration of this Ordinance; or

(f) render the contractor deserving of suspension from certifying or carrying out ~~prescribed requirement~~ minor works commenced under the simplified requirements.”.

(2) Section 13(2) is amended –

(a) in paragraph (e), by repealing the full stop and substituting a semicolon;

(b) by adding –

“(f) has certified ~~prescribed requirement~~ minor works commenced under the simplified requirements that have been carried out in contravention of this Ordinance;

(g) has supervised ~~prescribed requirement~~ minor works commenced under the simplified requirements that have been carried out in such a manner that they have caused injury to a person (whether or not while under such supervision);

(h) has carried out ~~prescribed requirement~~ minor works commenced under the simplified requirements in such a manner that they have caused injury to a person;

(i) has carried out building works (other than ~~prescribed requirement~~ minor works) in contravention of section 14(1) under the simplified requirements as if it were minor works commenced under the simplified requirements; or

(j) has certified ~~in respect of~~ building works ~~that are not prescribed requirement (other than~~ minor works) ~~anything that is required to be prescribed in respect of prescribed requirement as if it were~~ minor works commenced under the simplified requirements.”.

(3) Section 13(4) is repealed and the following substituted –

“(4) Where, after due inquiry, the disciplinary board is satisfied that the registered contractor or the director or officer or the person appointed by the registered contractor to act on his behalf for the purposes of this Ordinance has been convicted as described in subsection (2)(a) or done an act described in subsection (2)(b), (c), (d), (e), (f), (g), (h), (i) or (j), the disciplinary board may –

(a) order that the name of the registered contractor or the name of the director, officer or person be removed from the relevant register, either permanently or for such period as the disciplinary board thinks fit;

(b) order that the registered contractor or the director, officer or person be fined –

(i) in the case of building works (other than minor works), a sum not exceeding \$250,000; or

(ii) in the case of minor works, a sum not exceeding \$150,000;

- (c) order that the registered contractor or the director, officer or person be reprimanded; or
- (d) in the case of a registered contractor who is a registered general building contractor or a registered specialist contractor, order that he be prohibited from certifying or carrying out any ~~prescribed requirement~~ minor works commenced under the simplified requirements, either permanently or for such period as the disciplinary board thinks fit.”.

(4) Section 13 is amended by adding –

“(6A) The amount referred to in subsection (4)(b) and any costs of inquiry ordered to be paid under subsection (6) are recoverable as a debt due to the Government.”.

18.—Occupation of new building

~~Section 21(6) is amended by adding—~~

- ~~“(da) in the case of a building the prescribed plans and details of which have been submitted to the Building Authority under the prescribed requirements, any fire service installations or equipment required to be provided in accordance with the Code of Practice referred to in section 16(1)(b)(ii) has not been provided;~~
- ~~“(db) in the case of a building the prescribed plans and details of which have been submitted to the Building Authority under the prescribed requirements, it was erected in contravention of an approved or draft plan prepared under the Town Planning Ordinance (Cap. 131) or any relevant master lay out plan approved~~

~~by the Town Planning Board under section 4A(2) of that Ordinance;”.~~

21. Order for demolition, removal, or alteration of building, building works or street works

(1) Section 24 is amended, in the heading, by adding “**(other than ~~prescribed requirement~~ minor works commenced under the simplified requirements)**” after “**building works**”.

(2) Section 24 is amended by adding –

“(1A) Subsection (1) does not apply in respect of ~~prescribed requirement~~ minor works commenced under the simplified requirements.”.

22. Section added

The following is added immediately after section 24A –

“24AA. Order for demolition, removal, or alteration of ~~prescribed requirement~~ minor works commenced under the simplified requirements

(1) The Building Authority may, by order in writing served according to subsection (4), require a person to take the action described in subsection (2) in respect of any ~~prescribed requirement~~ minor works commenced under the simplified requirements, if the minor works have been or are being carried out in contravention of –

- (a) any provisions of this Ordinance;
- (b) any approved or draft plan prepared under the Town Planning Ordinance (Cap. 131); or
- (c) any relevant master lay-out plan approved by the Town Planning Board under section 4A(2) of the Town Planning Ordinance (Cap. 131).

(2) The action that the Building Authority may require a person to take under subsection (1) is –

- (a) the demolition of the minor works; or
- (b) such alteration of the minor works as may be necessary to cause the same to comply with the provisions of this Ordinance, the approved or draft plan or the master lay-out plan (as the case may be), or otherwise to put an end to the contravention referred to in subsection (1)(a), (b) or (c).

(3) The Building Authority shall specify in the order the time within which the action required by the order must be commenced and completed.

(4) An order made under subsection (1) shall be served on –

- (a) where the subject matter of the minor works is not a signboard –
 - (i) the person for whom the minor works have been or are being carried out; or
 - (ii) if that person is not the owner of the land or premises on which the minor works have been or are being carried out and cannot be found, subject to subsection (5), the owner of such land or premises; or
- (b) where the subject matter of the minor works is a signboard –
 - (i) the person for whom the signboard has been or is being erected;
 - (ii) if that person cannot be found, the person who would receive any rent or other

money consideration if the signboard were hired out or the person who is receiving such rent or money consideration; or

- (iii) if the persons referred to in subparagraphs (i) and (ii) are not the owner of the land or premises on which the signboard has been or is being erected and cannot be found, the owner of such land or premises.

(5) Where the place on which the minor works referred to in subsection (4)(a)(ii) are carried out is –

- (a) connected to land or premises (in this section referred to as “other land or premises”) other than the land or premises on which the minor works have been or are being carried out; and
- (b) occupied or used by the owner or occupier of that other land or premises,

subsection (4)(a)(ii) does not apply, and in such a case, the Building Authority shall serve the order made under subsection (1) on the owner of that other land or premises.

(6) The Building Authority may cause an order served under subsection (4)(a)(ii) or (b)(iii) or (5) to be registered in the Land Registry against –

- (a) if the order has been served on the owner of any land or premises in accordance with subsection (4)(a) or (b), the land or premises; or
- (b) if the order has been served on the owner of other land or premises in accordance with subsection (5), that other land or premises.

(7) If an order made under subsection (1) is not complied with, the Building Authority may demolish or alter or cause to be demolished or altered the minor works.

(8) Subject to subsection (9), the cost of any demolition or alteration under subsection (7) in relation to the minor works to which the order relates shall be recoverable as a debt due to the government from –

- (a) if the order had been served on a person in accordance with subsection (4)(a)(i) or (b)(i) or (ii), that person;
- (b) if the order had been served on the owner of any land or premises in accordance with subsection (4)(a) or (b), that owner; or
- (c) if the order had been served on the owner of other land or premises in accordance with subsection (5), that owner.

(9) Where the order has been registered with the Land Registry in accordance with subsection (6), the cost of any demolition or alteration under subsection (7) in relation to the minor works to which the order relates is recoverable from –

- (a) if the order had been served on the owner of any land or premises in accordance with subsection (4)(a) or (b), the person who, as at the date of completion of the demolition or alteration, is the owner of that land or premises;
- (b) if the order had been served on the owner of other land or premises in accordance with subsection (5), the person who, as at the date of completion of the demolition or alteration, is the owner of that other land or premises.

(10) A certificate purporting to be under the hand of the Building Authority and stating the date of completion of the demolition or alteration under subsection (7) is prima facie evidence of that fact.”.

24. Regulations

- (1) Section 38(1) is amended –
- (a) by repealing “for Development”;
 - (b) in paragraph (a), by adding –
 - “(vii) registered minor works contractors;”;
 - (c) by adding –
 - “(aa) restoration to and removal from the register of any person referred to in paragraph (a);”;
 - (d) by adding –
 - “(ka) matters relating to minor works, including –
 - (i) the designation of any building works as minor works for the purposes of the definition of “minor works” in section 2(1);
 - (ii) the classification of minor works into different classes, types or items;
 - (iii) the appointment of an authorized person, a registered structural engineer and a registered geotechnical engineer in respect of different classes, types or items of minor works; and
 - (iv) the appointment of prescribed registered contractors to carry out different classes, types or items of minor works; and
 - (kb) the prescription of any requirements as prescribed simplified requirements for the purposes of the

definition of “~~prescribed-simplified~~ requirements”
in section 2(1), including –

- (i) the duties of any authorized persons, registered structural engineers and registered geotechnical engineers, and any prescribed registered contractors, appointed in respect of ~~prescribed requirement~~—minor works commenced under the simplified requirements (whether to be ~~carried-out~~performed before or after the commencement of the ~~prescribed requirement~~—minor works);
 - (ii) the requirements for the commencement, carrying out, completion and certification of ~~prescribed requirement~~—minor works under the simplified requirements; and
 - (iii) the requirements for the submission or delivery of prescribed plans, certificates, notices or other documents to the Building Authority or other persons;
- (*kc*) matters relating to the enforcement of or other matters concerning the ~~prescribed—simplified~~ requirements;
- (*kd*) matters relating to section 39C, including matters relating to –
- (i) the appointment of persons including a registered minor works contractor to inspect any building or building works for the purposes of that section;

- (ii) the prescription of any building or building works for the purposes of the definition of “prescribed building or building works” in section 39C(6)(b); and
 - (iii) any plans, certificates, notices or other documents that are required to be submitted or delivered to the Building Authority or other persons;
 - (ke) the designation of any building works as designated exempted works for the purposes of section 41(3B);”.
- (2) Section 38 is amended by adding immediately before subsection (1A) –
- “(1AA) Without limiting the generality of subsection (1), the Secretary may by regulation provide for the registration of persons as registered minor works contractors in the provisional register (whether or not as supplemental or transitional arrangements).”.
- (3) Section 38(5) is amended, in the proviso, by repealing “for Development”.

26. Section added

The following is added immediately after section 39B –

“39C. Building Authority shall not serve order under section 24 or notice under section 24C

- (1) Notwithstanding sections 24 and 24C, if the requirements in subsections (2), (3) and (4) have been complied with in respect of a prescribed building or building works that have been completed or carried out before the date of commencement, the Building Authority shall not

serve an order under section 24 or a notice under section 24C in respect of that building or building works on the ground that they have been completed or carried out in contravention of section 14(1).

(2) An authorized person, a registered structural engineer, a registered general building contractor, a registered specialist contractor or a registered minor works contractor as required by the regulations is to be appointed to inspect the prescribed building or building works.

(3) The person appointed under subsection (2) is to submit or deliver to the Building Authority or other persons prescribed plans, certificates, notices and other documents as required by the regulations.

(4) Where the person appointed under subsection (2) considers that for the safety of the prescribed building or building works, it is necessary to carry out ~~alteration, rectification or reinforcement~~ minor works to alter, rectify or reinforce the prescribed building or building works, such works are to be carried out by a prescribed registered contractor under the simplified requirements~~him~~.

(5) Nothing in this section affects the power of the Building Authority to serve an order under section 24 or a notice under section 24C on the grounds other than those referred to in subsection (1).

(6) In this section –

(a) “date of commencement” (生效日期) means the date of commencement of section 26 of the Buildings (Amendment) Ordinance 2007 (of 2007);

(b) “prescribed building or building works” (訂明建築物或建築工程) means a building or building works prescribed in the regulations as prescribed building or building works for the purposes of this definition.”.

27. Offences

(1) Section 40(1AA) is repealed and the following substituted –

“(1AA) Any person who knowingly contravenes section 14(1) shall be guilty of an offence and shall be liable on conviction –

(a) in the case of building works (other than minor works) or street works –

(i) to a fine of \$400,000 and to imprisonment for 2 years; and

(ii) to a fine of \$20,000 for each day during which it is proved to the satisfaction of the court that the offence has continued; or

(b) in the case of minor works –

(i) to a fine at level 6 and to imprisonment for 6 months; and

(ii) to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.

(1AB) Any person who knowingly contravenes section 4A or 9AA shall be guilty of an offence and shall be liable on conviction to a fine at level 6 and to imprisonment for 6 months.”.

(2) Section 40(1)(a) is amended by repealing “of \$100,000” and substituting “at level 6”.

(3) Section 40(1A) is amended by repealing “of \$5,000” and substituting “at level 2”.

(4) Section 40(1B)(i) is amended by repealing “of \$50,000” and substituting “at level 5”.

(5) Section 40 is amended by adding –

“(1BB) Any person who, without reasonable excuse, fails to comply with an order served on him under section 24AA(1) shall be guilty of an offence and shall be liable on conviction –

(a) to a fine at level 5 and to imprisonment for 3 months; and

(b) to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.”.

(6) Section 40(1C) is amended by repealing “of \$2,000” and substituting “at level 1”.

(7) Section 40(1D) is amended by repealing “of \$10,000” and substituting “at level 3”.

(8) Section 40(1E) is amended by repealing “of \$50,000” and substituting “at level 5”.

(9) Section 40(2A) is amended –

(a) by repealing “or registered specialist contractor” and substituting “, registered specialist contractor or registered minor works contractor”;

(b) in paragraph (b), by repealing “; or” and substituting a semicolon;

(c) by adding –

“(ba) diverges or deviates in any material way from any works shown in a plan relating to minor works that is required to be submitted to the Building Authority under the ~~prescribed~~—simplified requirements; or”;

(d) by repealing everything after “conviction” and substituting –

“_

(d) in the case of building works (other than minor works) or street works, to a fine of \$1,000,000 and to imprisonment for 3 years; or

(e) in the case of minor works, to a fine of \$500,000 and to imprisonment for 18 months.”.

(10) Section 40 is amended by adding immediately after subsection (2AA) –

“(2AAAA) Any authorized person, registered structural engineer or registered geotechnical engineer who contravenes section 4B(2)(c), or any registered general building contractor, registered specialist contractor or registered minor works contractor who contravenes section 9AA(3)(b) or (5)(b), shall be guilty of an offence and shall be liable on conviction to a fine at level 5.

(2AAAB) It is a defence in any prosecution for a contravention of any section referred to in subsection (2AAAA) for the person charged to prove that he had no knowledge of, and could not have reasonably discovered, the contravention referred to in the charge.

(2AAAC) Any person who contravenes an order made by a disciplinary board under section 7(2)(bb) or 13(4)(d) shall be guilty of an offence and shall be liable on conviction –

(a) to a fine at level 6 and to imprisonment for 6 months; and

(b) to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.”.

(11) Section 40(2AB) is amended –

(a) by repealing “or a registered specialist contractor” and substituting “, a registered specialist contractor or a registered minor works contractor”;

(b) by repealing everything after “conviction” and substituting –

“_

(a) in the case of building works (other than minor works) or street works, to a fine of \$150,000 and to imprisonment for 1 year; or

(b) in the case of minor works, to a fine of \$35,000 and to imprisonment for 3 months.”.

(12) Section 40(2AC) is amended –

(a) by repealing “or a registered specialist contractor” and substituting “, a registered specialist contractor or a registered minor works contractor”;

(b) by repealing everything after “conviction” and substituting –

“_

(a) in the case of site formation works, piling works, excavation works or foundation works (other than minor works), to a fine of

\$750,000 and to imprisonment for 3 years; or

- (b) in the case of site formation works, piling works, excavation works or foundation works that are minor works, to a fine of \$350,000 and to imprisonment for 18 months.”.

(13) Section 40(2B) is amended –

- (a) by repealing “or a registered specialist contractor” and substituting “, a registered specialist contractor or a registered minor works contractor”;

- (b) by repealing everything after “conviction” and substituting –

“_

- (c) in the case of site formation works, piling works, foundation works or other form of building works (other than minor works), to a fine of \$1,000,000 and to imprisonment for 3 years; or

- (d) in the case of site formation works, piling works, foundation works or other form of building works that are minor works, to a fine of \$500,000 and to imprisonment for 18 months.”.

(14) Section 40(2C)(a) and (b) is repealed and the following substituted –

- “(a) in the case of building works (other than minor works) or street works –
 - (i) to a fine of \$1,000,000 and to imprisonment for 3 years; and
 - (ii) to a fine of \$200,000 for each day during which it is proved to the satisfaction of the court that the offence has continued; or
- (b) in the case of minor works –
 - (i) to a fine of \$500,000 and to imprisonment for 18 months; and
 - (ii) to a fine of \$100,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.”.

(15) Section 40 is amended by adding –

“(2E) Where a registered minor works contractor or a registered specialist contractor certifies or carries out minor works belonging to a class, type or item for which he is not registered, he shall be guilty of an offence and shall be liable on conviction –

- (a) to a fine at level 6 and to imprisonment for 6 months; and
- (b) to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.

(2F) Any person other than an authorized person, a registered structural engineer and a registered geotechnical engineer, who, without reasonable excuse, certifies minor works shall be guilty of an offence and shall be liable on conviction –

- (a) to a fine at level 6 and to imprisonment for 6 months; and

(b) to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.

(2G) Any person other than a registered general building contractor, a registered specialist contractor or a registered minor works contractor or a person acting under the supervision of any such contractor, who, without reasonable excuse, certifies or carries out minor works shall be guilty of an offence and shall be liable on conviction –

(a) to a fine at level 6 and to imprisonment for 6 months; and

(b) to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.”.

(16) Section 40(3) is amended by repealing “of \$50,000” and substituting “at level 5”.

(17) Section 40(3A) is amended by repealing “of \$50,000” and substituting “at level 5”.

(18) Section 40(4) is amended by repealing “of \$50,000” and substituting “at level 5”.

(19) Section 40(4A) is amended by repealing “of \$50,000” and substituting “at level 5”.

28. Exemptions

(1) Section 41(3) is repealed and the following substituted –

“(3) Building works (other than drainage works, ground investigation in the scheduled areas, site formation works or minor works) in any building are exempt from sections 4, 9, 9AA, 14(1) and 21 if the works do not involve the structure of the building–

~~(a) alter the structural elements of the building; and~~
~~(b) bear any imposed load, wind load or dead load~~
~~other than that due to their own weight.”.~~

(2) Section 41(3A) is repealed.

(3) Section 41 is amended by adding –

“(3B) Designated exempted works are exempt from sections 4, 9, 9AA, 14(1) and 21.

(3C) Drainage works (other than minor works) in any building are exempt from sections 4, 9 and 14(1) if the works do not –

- (a) alter the structural elements of the building;
- (b) involve any drain or sewer into which there is discharged, or into which it is intended to discharge, any trade effluent, chemical refuse, waste steam, petroleum spirit, carbide of calcium, acid, grease or oil;
- (c) involve altering any manhole at which any drain or sewer from the building is connected with a public sewer;
- (d) involve altering any septic tank or cesspool;
- (e) involve making a direct or indirect connection of an additional drain or sewer to a septic tank or cesspool; or
- (f) involve underground drainage works in a scheduled area that is described as area number 3 in the Fifth Schedule.

(3D) Nothing in subsections (3), (3B) and (3C) permits any building works or drainage works to be carried out in contravention of any regulations.”.

PART 3

RELATED AMENDMENTS

Building (Administration) Regulations

42. Regulation added

The following is added –

“48. **Regulations do not apply to ~~prescribed requirement~~ minor works commenced under the simplified requirements**

These regulations do not apply in respect of ~~prescribed requirement~~ minor works commenced under the simplified requirements.”.

Development Bureau

March 2008