

LEGISLATIVE COUNCIL BRIEF

Buildings Ordinance
(Chapter 123)

BUILDINGS (AMENDMENT) BILL 2007

INTRODUCTION

At the meeting of the Executive Council on 13 November 2007, the Council ADVISED and the Chief Executive ORDERED that the Buildings (Amendment) Bill 2007 (“the Amendment Bill”) (Annex A) should be introduced into the Legislative Council to rationalize the building control system in respect of the carrying out of minor works.

A

JUSTIFICATIONS

2. The existing building control system as specified under the BO applies to all private building works. Even building works which are minor in nature (e.g. erection of supporting frames for air conditioners) have to comply fully with the statutory requirements, including the prior approval of plans and consent for commencement by the Building Authority (“BA”), appointment of authorized persons (“APs”), registered structural engineers (“RSEs”) and/or registered geotechnical engineers (“RGEs”) (collectively referred to in this paper as “building professionals”) to design, co-ordinate and supervise the works as well as appointment of registered general building contractors (“RGBCs”) or registered specialist contractors (“RSCs”) to carry out the works. The costs and time involved in complying with these requirements are disproportionate to the scale of minor works. As a result, the BO has not been complied with in relation to many of these minor works, rendering a large number of such works unauthorized.

3. This situation is undesirable to both building owners and the Government. The works undertaken by unregistered contractors has no guarantee of quality and may pose threats to public safety. The owners may be ordered to remove such unauthorized works under the BO and may have to face default statutory orders or warning notices being registered against their properties in the Land Registry. The Government has to spend huge resources to take enforcement actions against such unauthorized works.

4. We therefore see the need to devise a set of simplified statutory requirements by way of amendments to the BO for the carrying out of minor works. Under the proposal, the degree of control on minor works will vary according to their nature, scale and complexity and the risk to safety they pose. The objectives are to improve efficiency and flexibility, enhance building safety and increase the user-friendliness of our building control regime, thus facilitating compliance.

Minor Works Control System

5. We propose to amend the BO and make new regulations to introduce a system to control the carrying out of minor works. Apart from the existing system under which prior approval and consent of the BA have to be sought for carrying out building works, a set of prescribed requirements that are simpler than the present regime will be added to the BO by the Amendment Bill. The detailed modus operandi of the minor works control system will be set out in the regulations.

6. A new category of building works, namely “minor works”, and a new register of “registered minor works contractors” (“RMWCs”) for carrying out such minor works, will be introduced under the BO. In respect of minor works, the requirement to seek BA’s prior approval for building plans and to commence works will be dispensed with. Minor works will be classified into three classes according to their nature, scale and complexity and the risk to safety they pose. A general description of the three classes of minor works is as follows -

- (a) Class I minor works are relatively more complicated minor works (e.g. installation of internal staircases connecting two floors);
- (b) Class II minor works are comparatively less complex works (e.g. repair of external walls); and
- (c) Class III minor works cover small-scale minor works, mostly carried out in household settings, such as erection of supporting frames for air-conditioners.

The works under each class will be further classified into types and items that correspond to the specialization of works in the industry. Each item of minor works will be precisely defined with their dimensions, locations

and other relevant measurements specified. The specifications for the list of 114 items of minor works will be promulgated in regulations.

7. Regarding the required qualifications of personnel undertaking minor works, as Class I minor works are relatively more complicated, they require higher technical expertise and more stringent supervision, and thus should be designed and supervised by APs (with the assistance of RSEs or RGEs as necessary) and carried out by registered contractors (including RGBCs, RSCs and RMWCs). The other two classes of minor works can be carried out by registered contractors (including RMWCs) without the involvement of APs. The control system over RMWCs largely mirrors that for existing registered contractors (RGBCs and RSCs) under the current BO. The contractors who apply for registration as RMWCs may be body corporates, partnerships or sole proprietorships and have to satisfy the BA that their personnel possess the necessary technical qualifications and work experience before they could be registered under the BO. For a sole proprietor, the technical personnel will be himself. The minor works industry is characterized by the presence of many individual workers who are competent in carrying out simple Class III minor works. To cater for the registration of this group of workers, we will accept individuals who personally carry out minor works to register as Class III RMWCs. Regardless of whether the RMWC is a company or an individual, the contractor needs to perform the same duties and bear the same obligations and responsibilities under the minor works control system.

8. In respect of notification procedures, building professionals and registered contractors will be required to notify the BA before the commencement of Classes I and II minor works. Notification of the commencement of Class III minor works is not required. Nevertheless, building professionals and registered contractors are required to certify the completion of any minor works they have undertaken and submit the certificate to the BA.

9. A registration system will be established for RMWCs under the BO by way of regulations. Existing minor works practitioners may apply for registration as RMWCs for the relevant classes, types or items of minor works as appropriate according to their qualifications and experience. A transitional period and a provisional registration arrangement will be put in place to allow adequate time for the existing minor works practitioners to prepare for registration.

10. As stipulated under the new legislation, applicants for registration as RMWCs have to satisfy the BA on their qualifications. Authorized representatives of body corporates or partnerships (acting on their behalf) and individual workers, who possess relevant trade certificates, apprentice certificates or recognized skills qualifications, may apply. Some of them may need to attend top-up courses to enhance their skills before they can be qualified.

11. For Class III minor works, we will accept applications from individual workers who do not possess formal qualifications but have adequate relevant experience. For individual workers applying to register as Class III RMWCs, they are required to attend a mandatory training course relating to the statutory requirements and technical skills for Class III minor works before registration.

12. We believe that our regime should enable existing practitioners with adequate experience and qualifications to remain in business and get registered without much difficulty.

13. The Buildings Department (“BD”) will issue technical guidelines on minor works to the building professionals and registered contractors for their reference. It will conduct audit checks to ascertain compliance with the statutory requirements and ensure the quality and standard of minor works. Disciplinary and prosecution actions would be taken against cases of non-compliance. We will also launch an extensive public education campaign to facilitate building owners, tenants, building professionals, registered contractors and other stakeholders to understand their obligations and responsibilities in conducting minor works under the new system. Particular emphasis will be put on the distinction between minor works (which may be commenced under the simplified procedures) and major building works (which have to follow the current “approval and consent” procedures) in order to promote public understanding and avoid possible abuse.

Schedule of Minor Works

14. The BD has established a Working Group and worked very closely with the professional institutes, trade associations and frontline minor works practitioners in formulating the three classes of minor works. Apart from taking account of the nature, scale and complexity of various minor works and the risk they pose to safety,

the system of classification matches the practice of the industry to facilitate registration by the practitioners. The proposed classification (para. 6) has been drawn up after careful and thorough discussion in the Working Group. Furthermore, with the planned publicity and education programme and top-up courses, the practitioners should have no difficulties in ascertaining the relevant class for a particular piece of minor works.

Interface with the Construction Workers Registration Ordinance

15. During the scrutiny of the Buildings (Amendment) Bill 2003, the interface between the proposed registration system and that under the Construction Workers Registration Ordinance (Cap 583) ("CWRO") was one of the major concerns of the Bills Committee. At that time, Members of the Bills Committee were of the view that workers of the relevant trade registered under the CWRO should be allowed to carry out Class III minor works without further registration under the BO.

16. Nevertheless, during the course of our discussion with the trade, they indicated that there are difficulties for the minor works practitioners to register as skilled workers under the CWRO. Most of the Class III minor works practitioners are involved in multiple trades designated under the CWRO and the skill level required in each trade to fulfill their job assignment is normally less comprehensive and demanding than that required for registration as skilled workers under the CWRO. The trade thus requested and we agreed to establish a separate registration regime under the BO for minor works.

17. Phase I Prohibition of the CWRO that was commenced on 1 September 2007 prohibits workers from carrying out construction works on construction sites unless they are registered under the CWRO. The trade has indicated no major difficulty in complying with the requirements in this phase. Practitioners are required to register as "general workers" under the CWRO for carrying out minor works. Regarding the remaining phase of prohibition which would require registration of skilled workers according to their specific areas of expertise, we will review the schedule of designated trades under the CWRO in consultation with the trade before its implementation.

Obligations of Owners and Contractors

18. Under the minor works control system, building owners are required to appoint building professionals and/or registered contractors to carry out minor works. The persons so appointed must comply with the statutory requirements, particularly the safety provisions, in performing their duties, failing which disciplinary sanction or other penalties, including fines and imprisonment, may be imposed. The levels of the proposed sanction for minor works are lower than those for similar offences associated with major building works due to the lower risk they pose to safety.

Validation Scheme

19. At present, building works of a minor nature have often been carried out without the prior approval and consent of the BA and hence are unauthorised. Such works include works relating to supporting frames for air conditioners, drying racks and small canopies. We appreciate that these three types of works, though unauthorised, are carried out to meet practical household needs. To rationalize these three specific types of unauthorised works and enable owners to retain them for continued use, we propose to introduce a validation scheme as part of the minor works control system. Subject to the inspection and certification by a building professional or registered contractor and validation by the BA to confirm their safety, no enforcement action will be taken against these three types of unauthorised minor works unless their safety conditions change. Alteration, rectification and reinforcement works may have to be carried out before such works can be certified under the validation scheme.

Subsidiary Legislation

20. The Secretary for Development will make new regulations under the BO covering the minor works system to deal with matters including classification of minor works; the registration of RMWCs; appointment and duties of building professionals and RMWCs; requirements for carrying out minor works under the simplified statutory requirements; and a technical list of minor works. New regulations on fees will also be introduced to specify the registration fees for RMWCs.

Public Education

21. As the minor works control system is a new concept to the general public, we will conduct a very extensive public education campaign to facilitate public

understanding of the new legislation and enable building owners to make beneficial use of the scheme. To maximize our resources and create synergy, we will conduct our campaign in liaison with the Hong Kong Housing Society (“HKHS”) which has been heavily involved in assisting building owners in building management and maintenance. BD’s resources will concentrate on regulatory and enforcement functions.

22. To facilitate the public’s understanding of the Amendment Bill, we will publish together with the Bill a pamphlet, in the form of questions and answers, focusing on the benefits and implications that the minor works control system will bring to owners, tenants, building professionals and other stakeholders. A draft of the pamphlet is attached at Annex B.

B

23. Upon passage of the Bill and prior to the implementation of the minor works system, we will publish user-friendly pamphlets with easy-to-follow procedural guides for the average households and building owners. Tailor-made technical guidelines will also be produced for minor works practitioners, building managers and business operators to cater for their specific needs. We will emphasise in our publicity materials the modus operandi of the new system and the obligations and responsibilities of individual stakeholders. In conjunction with the HKHS, we will also set up advisory services for building owners, contractors and workers to facilitate their compliance with the law. BD and HKHS will work in close liaison to ensure that useful and timely technical and operational advice will be provided for the users.

THE BILL

24. The main provisions of the Amendment Bill are as follows -

- (a) **Clause 3** amends section 2 of the Ordinance to include in the Ordinance the definition of “minor works”, and to include in the Ordinance the definitions of “prescribed requirements” and “prescribed requirement minor works” to cover respectively the simplified statutory requirements under the regulations and the minor works to which those simplified statutory requirements apply;
- (b) **Clause 6** amends section 4(1) of the Ordinance to disapply that section in cases of prescribed requirement minor works so that it is

not necessary to appoint an AP, RSE and RGE in respect of those works in all cases;

- (c) **Clause 7** adds a new section 4A to the Ordinance –
 - (i) to provide, further to clause 6, for the appointment or nomination, in the circumstances prescribed by the regulations, of an AP, RSE and RGE in respect of minor works, in cases where prior approval and consent of the BA are not to be sought for carrying out the minor works and the simplified statutory requirements are to be invoked; and
 - (ii) to provide for the duties to be carried out by the appointed or nominated AP, RSE and RGE, including duties to comply with the prescribed requirements;
- (d) **Clause 10(1)** amends section 8A(1) of the Ordinance by providing that the BA is to keep a register or provisional register of RMWCs who are qualified to carry out minor works specified in the register in which they are registered;
- (e) **Clause 13** adds a new section 9AA to the Ordinance to provide for the appointment, in the circumstances prescribed by the regulations, of a RGBC, RSC or RMWC, in respect of minor works, including prescribed requirement minor works;
- (f) **Clause 24** adds section 38 to provide for matters including classification of minor works, registration of RMWCs, appointment and duties of building professionals and RMWCs, and prescribed requirements;
- (g) **Clause 26** adds a new section 39C to the Ordinance to provide for validation of unauthorized building works or building structures through a procedure to be further prescribed by the regulations;
- (h) **Clause 27** amends section 40 of the Ordinance by providing for the penalties in relation to the offences associated with minor works and other new provisions;

- (i) **Clause 28** amends section 41 of the Ordinance to provide that certain designated works and building works that do not bear additional loads are exempt from certain provisions of the Ordinance; and
- (j) **Clause 31** provides for the transitional arrangements in relation to minor works.

C

25. The existing provisions being amended are at Annex C.

LEGISLATIVE TIMETABLE

26. The legislative timetable will be -

Publication in the Gazette	23 November 2007
First Reading and commencement of Second Reading debate	5 December 2007
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

IMPLICATIONS OF THE PROPOSAL

D

27. The proposal's economic, environmental, financial, civil service and sustainability implications are set out at Annex D. The Amendment Bill is in conformity with the Basic Law, including the provisions concerning human rights. In addition, the Bill will not affect the current binding effect of the BO. It has no productivity implications.

PUBLIC CONSULTATION

28. We have consulted the LegCo Panel on Planning, Lands and Works. Members are generally supportive of the policy direction of the proposed minor works control system. A Working Group, comprising representatives from the relevant professional institutes, practitioners as well as the “Minor Works Concern Group” representing the frontline minor works practitioners, has been established to map out the proposed control system. The industry and practitioners are generally content with the proposal. The BD conducted in 2006 and 2007 seven briefing sessions to directly exchange views with building owners, owners’ corporations, management

companies and minor works practitioners. Over 1,000 participants attended the briefing sessions. A telephone public opinion survey was also conducted in September 2007 to gauge public views on the proposed minor works control system. The interviewees are generally supportive of the proposal.

PUBLICITY

29. A press release will be issued on 21 November 2007. A press briefing will be arranged on the same date to elaborate on the details of the scheme. A spokesman will be available to answer media and public enquiries.

ENQUIRIES

30. Enquiries about this brief may be directed to Mr Edward TO, Principal Assistant Secretary (Planning and Lands), Development Bureau at telephone number 2848 6288 or fax number 2899 2916.

Development Bureau

21 November 2007

BUILDINGS (AMENDMENT) BILL 2007:
ANNEXES

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Annex B – Pamphlet on the Amendment Bill (Draft)

Annex C – Existing provisions which are being amended

Annex D – Financial and Civil Service, Economic, Environmental and
Sustainability Implications

Annex A

BUILDINGS (AMENDMENT) BILL 2007

BUILDINGS (AMENDMENT) BILL 2007

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A BILL

To

Amend the Buildings Ordinance and its subsidiary legislation to provide for matters relating to building works of a minor nature and the appointment, control and duties of persons who are allowed to deal with those works; to provide for a scheme under which demolition orders will not be made in respect of certain types of unauthorized structure or building works; to provide for matters relating to the projections outside buildings; to provide that certain designated works, and building works that do not bear additional loads, are exempt from the regulation of the Ordinance; to clarify the procedure for removal of names from registers; to provide for the recovery of costs of inquiry; to remove spent provisions and make minor textual amendments; and to provide for matters relating to public inspection of information kept by the Building Authority.

Enacted by the Legislative Council.

PART 1

PRELIMINARY

1. Short title

This Ordinance may be cited as the Buildings (Amendment) Ordinance 2007.

2. Commencement

This Ordinance shall come into operation on a day to be appointed by the Secretary for Development by notice published in the Gazette.

PART 2

AMENDMENTS TO BUILDINGS ORDINANCE

3. Interpretation

- (1) Section 2(1) of the Buildings Ordinance (Cap. 123) is amended –
- (a) by repealing the definition of “contraventions of the provisions of this Ordinance” and substituting –
- ““contraventions of the provisions of this Ordinance” (違反本條例的條文) includes –
- (a) failure to comply with any order given or any condition imposed by the Building Authority under this Ordinance;
 - (b) in the case of building works (other than prescribed requirement minor works), material divergence or deviation from any plan approved by the Building Authority under this Ordinance;
 - (c) in the case of prescribed requirement minor works, material divergence or deviation from any plan required to be submitted to the Building Authority under the prescribed requirements; and
 - (d) in the case of prescribed requirement minor works, failure

to submit to the Building Authority any certificate required to be submitted under the prescribed requirements;”;

- (b) by repealing the definition of “specialized works” and substituting –

““specialized works” (專門工程) means building works or street works designated as specialized works under section 2A;”;

- (c) by adding –

““minor works” (小型工程) means building works designated in the regulations as minor works for the purposes of this definition;

“prescribed registered contractor” (訂明註冊承建商) means a registered general building contractor, registered specialist contractor or registered minor works contractor;

“prescribed requirement minor works” (訂明規定小型工程) means minor works in respect of which section 14(1), by virtue of section 14AA, does not or will not apply;

“prescribed requirements” (訂明規定) means any requirements prescribed in the regulations as prescribed requirements for the purposes of this definition;

“registered minor works contractor” (註冊小型工程承建商) means a person whose name is for the time being on the register or provisional register of

minor works contractors maintained under section 8A;

“Secretary” (局長) means the Secretary for Development;”.

(2) Section 2 is amended by adding –

“(1A) Where this Ordinance refers to a person’s certifying prescribed requirement minor works, it means the certification by the person of anything that is required by the regulations to be certified in respect of such minor works.”.

4. Section added

The following is added immediately after section 2 –

“2A. Designation of specialized works

(1) The Building Authority may designate any category of building works or street works as specialized works.

(2) The Building Authority shall notify in the Gazette a designation under subsection (1).

(3) The notification in subsection (2) is not subsidiary legislation.”.

5. Registers of authorized persons, structural engineers and geotechnical engineers

(1) Section 3(5CA) is repealed and the following substituted –

“(5CA) A Geotechnical Engineers Registration Committee consists of –

(a) 3 registered geotechnical engineers nominated by the Engineers Registration Board;

(b) 1 authorized person nominated by the Architects Registration Board from the

list of architects in the authorized persons' register;

- (c) 1 authorized person nominated by the Surveyors Registration Board from the list of surveyors in the authorized persons' register;
- (d) 1 registered structural engineer nominated by the Engineers Registration Board;
- (e) 1 person nominated by the Building Authority as his representative;
- (f) 1 public officer of the rank of Government Geotechnical Engineer nominated by the Director of Civil Engineering and Development; and
- (g) 1 person selected by the Building Authority from among the persons nominated in accordance with subsection (5E).”.

(2) Section 3(5GA) is amended –

- (a) in paragraph (b), by repealing “(5CA)(a)(v) or (b)(v)” and substituting “(5CA)(e)”;
- (b) in paragraph (c), by repealing “(5CA)(a)(vi) or (b)(vi)” and substituting “(5CA)(f)”.

(3) Section 3(5H) is amended –

- (a) in paragraph (b), by adding “and” at the end;
- (b) in paragraph (c), by repealing “subparagraph (i) of that subsection; and” and substituting “that subsection.”;
- (c) by repealing paragraph (d).

(4) Section 3(9C) is amended –

- (a) in paragraph (b), by repealing “; and” and substituting a semicolon;
 - (b) in paragraph (c), by repealing the full stop and substituting “; and”.
- (5) Section 3(11A) is repealed and the following substituted –
 - “(11A) Subject to subsection (11AA), the Building Authority shall remove the name of a person from the authorized persons’ register, the structural engineers’ register or the geotechnical engineers’ register if the Building Authority –
 - (a) does not receive an application made by the person in accordance with subsection (9C) ; or
 - (b) has refused an application made by the person under subsection (9D) and sent a notice by registered post to his last known address notifying him of the refusal.
 - (11AA) The removal of a name under subsection (11A)(a) becomes effective immediately after the date of expiry of the existing registration.
 - (11AB) A notice under subsection (11A)(b) shall specify the effective date of removal, which shall not be earlier than the date of expiry of the existing registration.”.
- (6) Section 3 is amended by adding –
 - “(17) The Building Authority shall make available the information specified in subsection (18) for public inspection at any reasonable time to facilitate any member of the public to ascertain –
 - (a) whether he is, in relation to any matter connected with any activity under this

Ordinance, dealing with a person registered under this Ordinance; and

(b) the particulars of a person so registered.

(18) The information specified for the purposes of subsection (17) is the name, the registration number and the expiry date of the registration of any authorized person, structural engineer or geotechnical engineer included in the authorized persons' register, the structural engineers' register or the geotechnical engineers' register respectively.”.

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.”.

7. Sections added

The following are added –

“4A. Appointment of authorized person, registered structural engineer or registered geotechnical engineer: prescribed requirement minor works

(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 appoint in respect of the minor works one or more of the persons specified in subsection (2) 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 for which he is appointed or nominated, comply with the prescribed 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;
- (b) supervise in the manner prescribed in the prescribed requirements the carrying out of the prescribed requirement minor works;

- (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 under the prescribed requirements;
- (d) ensure that –
 - (i) fire service installations or equipment in relation to the prescribed requirement minor works 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 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 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 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 lay-

out plan approved by the Town Planning Board under section 4A(2) of that Ordinance; and

(g) comply generally with this Ordinance.”.

8. Appointment and powers of disciplinary board

Section 5(1) and (3A) is amended by repealing “for Development”.

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;

(bb) make further certification of prescribed requirement minor works 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 that have been carried out in contravention of this Ordinance;

(g) has supervised prescribed requirement minor works 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 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) 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.”.

(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,”;

- (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, 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.”.

10. Registers of contractors, etc.

(1) Section 8A(1) is amended –

- (a) in paragraph (a), by repealing “and”;
- (b) in paragraph (b), by repealing the full stop and substituting “; and”;
- (c) by adding –
 - “(c) a register or provisional register of minor works contractors who are qualified to carry out minor works belonging to the class, type and item specified in the register in which they are registered.”.

(2) Section 8 A(4) is amended –

- (a) in paragraph (b), by repealing the full stop and substituting “; and”;
- (b) by adding –
 - “(c) the register or provisional register of minor works contractors the name of a registered minor works contractor who ceases, for any reason, to carry out

minor works belonging to the class, type and item specified in the register in which he is registered.”.

(3) Section 8A(5) is amended by repealing “or a registered specialist contractor” and substituting “; a registered specialist contractor or a registered minor works contractor”.

(4) Section 8A is amended by adding –

“(6) The Building Authority shall make available the information specified in subsection (7) for public inspection at any reasonable time to facilitate any member of the public to ascertain –

- (a) whether he is, in relation to any matter connected with any activity under this Ordinance, dealing with a contractor registered under this Ordinance; and
- (b) the particulars of a contractor so registered.

(7) The information specified for the purposes of subsection (6) is –

- (a) the name, registration number and the expiry date of the registration of any registered general building contractor, registered specialist contractor or registered minor works contractor; and
- (b) the name of the person appointed by a registered contractor referred to in paragraph (a) to act on the registered contractor’s behalf for the purposes of this Ordinance.”.

11. Renewal of registration as a contractor

- (1) Section 8C(6) is repealed and the following substituted –

“(6) Subject to subsection (6A), the Building Authority shall remove the name of a person from a register if the Building Authority –

- (a) does not receive an application made by the person for renewal of registration made in accordance with subsection (2); or
- (b) has refused an application made by the person under subsection (5) and sent a notice by registered post to his last known address notifying him of the refusal.”.

- (2) Section 8C is amended by adding –

“(6A) The removal of a name under subsection (6)(a) becomes effective immediately after the date of expiry of the existing registration.

(6B) A notice under subsection (6)(b) shall specify the effective date of removal, which shall not be earlier than the date of expiry of the existing registration.”.

12. Appointment and duties of registered contractors

- (1) Section 9(1) is amended by repealing “specialized works.” and substituting –

“_

- (a) specialized works; and
- (b) minor works.”.

- (2) Section 9(2) is amended by adding “(other than the specialized works designated as minor works)” after “specialized works”.

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 (other than prescribed requirement minor works) 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 shall, in relation to the prescribed requirement minor works, comply with the prescribed requirements.

(5) Without affecting the generality of subsection (4), a prescribed registered contractor appointed to carry out prescribed requirement minor works shall also –

- (a) provide continuous supervision in relation to the carrying out of the prescribed requirement minor works under the prescribed 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 under the prescribed requirements; and
- (c) comply generally with this Ordinance.”.

14. Appointment and powers of disciplinary board

- (1) Section 11(1) is amended by repealing “for Development”.
- (2) Section 11 is amended by adding immediately before subsection

(3A) –

“(3AA) Every board appointed to hear and determine any proceedings against a registered minor works contractor shall consist of –

- (a) 2 persons who are members of the Registered Contractors’ Disciplinary Board Panel appointed under section 11A;
- (b) 2 persons who are members of the Authorized Persons’, Registered Structural Engineers’ and Registered Geotechnical Engineers’ Disciplinary Board Panel appointed under section 5A; and
- (c) 1 person selected from among the persons nominated in accordance with subsection (4A).”.

(3) Section 11(3B) is amended by repealing “or a registered specialist contractor” and substituting “, a registered specialist contractor or a registered minor works contractor”.

(4) Section 11(4A) is amended –

- (a) by repealing “and (3)(c)” and substituting “, (3)(c) and (3AA)(c)”;
- (b) by repealing “for Development”.

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;
 - (e) make further certification of or carrying out prescribed requirement minor works 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.”.

(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 that have been carried out in contravention of this Ordinance;
- (g) has supervised prescribed requirement minor works 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 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); or
- (j) has certified in respect of building works that are not prescribed requirement minor works anything that is required to be prescribed in respect of prescribed requirement minor works.”.

(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 an officer or a 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, 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.”.

16. Section added

The following is added –

“14AA. Approval and consent not required for minor works

Section 14(1) does not apply in respect of minor works commenced or carried out without the approval and consent of the Building Authority under that section if sections 4A(1) and 9AA(1) have been complied with in respect of the works.”.

17. Provision for urgent work

Section 19(4)(c) is amended by adding “the registered minor works contractor,” after “specialist contractor,”.

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;”.

19. Powers of Building Authority

Section 22(2)(a) is repealed and the following substituted –

- “(a) access to every part of any building works or street works shall be provided by the registered general building contractor, registered specialist contractor or registered minor works contractor; and”.

20. Building works, etc. to cease on order of Building Authority

(1) Section 23(1) is amended by repealing “or registered specialist contractor” and substituting “, registered specialist contractor, registered minor works contractor”.

(2) Section 23(2) and (3) is amended by adding “, registered minor works contractor” after “registered specialist contractor”.

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)” after “building works”.

(2) Section 24 is amended by adding –

“(1A) Subsection (1) does not apply in respect of prescribed requirement minor works.”.

22. Section added

The following is added immediately after section 24A –

“24AA. Order for demolition, removal, or alteration of prescribed requirement minor works

(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, 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.”.

23. Projections on or over streets

Section 31(1) is amended –

- (a) in paragraph (a), by repealing “; or” and substituting a semicolon;
- (b) by adding –
 - “(aa) the building or other structure is a signboard and its location and dimensions do not constitute –
 - (i) a danger to the structure of any building;
 - (ii) a hazard to traffic;
 - (iii) a fire hazard;
 - (iv) an obstruction of any traffic signs, traffic light signals, road markings, or any other equipment or facilities for the monitoring or control of traffic condition;
 - (v) an obstruction or reduction of the width or height of any means of escape or means of access for fire fighting and rescue;
 - (vi) an obstruction of the lighting or ventilation of any building in such a manner as to reduce the quality of light and air available to the building below that required under the regulations; or
 - (vii) a danger to the public; or”.

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 requirements for the purposes of the definition of “prescribed 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 (whether to be carried out 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; 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 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”.

25. Technical memorandum

Section 39A(1) is amended –

- (a) by repealing “for Development”;
- (b) in paragraph (f), by repealing “or registered specialist contractor” and substituting “, registered specialist contractor or registered minor works contractor”.

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 works on the prescribed building or building works, such works are to be carried out by 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.”.

(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 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 –

- (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 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.”.

29. Offences in respect of Appeal Tribunal

Section 53B is amended by repealing “of \$10,000” and substituting “at level 3”.

30. Inclusion of certain registered professional engineers in geotechnical engineers’ register

Section 53H is amended by repealing “3(5CA)(a)(i)” and substituting “3(5CA)(a)”.

31. Part IX added

The following is added immediately after section 55 –

“PART IX

56. Savings and transitional provisions relating to minor works

(1) Where, before the date of commencement, the Building Authority has given approval and consent for the commencement of any building works under section 14(1), the building works shall not be treated as minor works for the purposes of this Ordinance notwithstanding that they are building works designated as minor works in the regulations.

(2) Where any building works, which are exempt from section 14(1) by virtue of section 41(3) or (3A) as it was in force immediately before the date of commencement, have been completed or are being carried out as at the beginning of the date of commencement, the building works shall not be treated as minor works for the purposes of this Ordinance notwithstanding that they are building works designated as minor works in the regulations.

(3) In this section, “date of commencement” (生效日期) means the date on which section 28 of the Buildings (Amendment) Ordinance 2007 (of 2007) comes into operation.”.

32. Scheduled areas

The Fifth Schedule is amended by repealing “[s. 2(1)]” and substituting “[ss. 2(1) and 41]”.

PART 3

RELATED AMENDMENTS

Building (Administration) Regulations

33. Notification to Building Authority before commencement of building works or street works

Regulation 20(1)(a) and (b) of the Building (Administration) Regulations (Cap. 123 sub. leg. A) is amended by repealing “or the registered specialist contractor” and substituting “, registered specialist contractor or registered minor works contractor”.

34. Building Authority to be notified on change of authorized person, registered structural engineer, registered geotechnical engineer, registered contractor, etc.

Regulation 22(1), (2), (4) and (6) is amended by repealing “or registered specialist contractor” wherever it appears and substituting “, registered specialist contractor or registered minor works contractor”.

35. Duties of registered contractor who ceases to be appointed

Regulation 24 is amended by repealing “or registered specialist contractor” and substituting “, registered specialist contractor or registered minor works contractor”.

36. Certificate to be given by registered contractor and authorized person on completion of building works

(1) Regulation 25(1) is amended –

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

- (b) by adding “, and the plans approved in respect of the new building and the building works by the Building Authority,” after “regulations”.
- (2) Regulation 25(2) is amended –
 - (a) by repealing “and the registered specialist contractor” and substituting “, registered specialist contractor and registered minor works contractor”;
 - (b) by repealing “the plans approved in respect thereof by the Building Authority” and substituting “the provisions of the Ordinance and regulations, and the plans approved in respect of the new building and the building works by the Building Authority”.
- (3) Regulation 25(3) is amended –
 - (a) by repealing “and the registered specialist contractor” and substituting “, registered specialist contractor and registered minor works contractor”;
 - (b) by repealing “the plans approved in respect thereof by the Building Authority” and substituting “the provisions of the Ordinance and regulations, and the plans approved in respect of the new building and the building works by the Building Authority”.

37. Certificate to be given by authorized person, registered structural engineer, registered geotechnical engineer and registered contractor engaged in respect of emergency work

Regulation 28 is amended by repealing “and registered specialist contractor” and substituting “, registered specialist contractor and registered minor works contractor”.

38. Duties imposed by this Part not to prejudice any other duties imposed by Ordinance or other regulations

Regulation 35 is amended by repealing “or registered specialist contractor” where it twice appears and substituting “, registered specialist contractor or registered minor works contractor”.

39. Duty of authorized person to supply copy of plans of building works or street works to registered contractor

Regulation 36(1) and (2) is amended by repealing “and the registered specialist contractor” and substituting “, registered specialist contractor and registered minor works contractor”.

40. Duty of registered contractor to keep approved plans and supervision plans on site

Regulation 40 is amended by repealing “and the registered specialist contractor” and substituting “, registered specialist contractor and registered minor works contractor”.

41. Duty of registered contractor to supervise

(1) Regulation 41(1) is amended by repealing “and the registered specialist contractor” and substituting “, registered specialist contractor and registered minor works contractor”.

(2) Regulation 41(2) is amended –

- (a) by repealing “and the registered specialist contractor” where it twice appears and substituting “, registered specialist contractor and registered minor works contractor”;
- (b) by adding “or 9AA” after “section 9”.

(3) Regulation 41(4) is amended by repealing “and a registered specialist contractor” and substituting “, registered specialist contractor and registered minor works contractor”.

(4) Regulation 41(6) is amended by repealing “and the registered specialist contractor” and substituting “, registered specialist contractor and registered minor works contractor”.

42. Regulation added

The following is added –

“48. Regulations do not apply to prescribed requirement minor works

These regulations do not apply in respect of prescribed requirement minor works.”.

Building (Planning) Regulations

43. Interpretation

Regulation 2(1) of the Building (Planning) Regulations (Cap. 123 sub. leg. F) is amended by adding –

““drying rack” (晾衣架) means a structure for hanging clothes or garments for drying;”.

44. Eaves, cornices, mouldings, etc.

Regulation 7 is amended by adding –

“(3) No drying rack or supporting structure for an air-conditioning unit shall project over a street for more than 750 mm or at a height of less than 2.5 m above the level of the ground.”.

PART 4

CONSEQUENTIAL AMENDMENT

Construction Workers Registration Ordinance

45. Interpretation

Section 2(1) of the Construction Workers Registration Ordinance (Cap. 583) is amended, in the definition of “construction site”, in paragraph (a)(ii) –

- (a) by repealing “41(3) or (3A)” and substituting “14AA or 41(3), (3B) or (3C)”;
- (b) by repealing “carried out without application to or approval from the Building Authority” and substituting “commenced or carried out without complying with section 14(1) of that Ordinance”.

46. Interpretation

Section 19(2) is repealed and the following substituted –

“(2) For the purposes of this Part, any construction operations that are building works, or street works, that are not carried out by or on behalf of the Government are deemed to begin –

- (a) on the date of the Building Authority’s consent in writing for the commencement of the works under section 14(1)(b) of the Buildings Ordinance (Cap. 123); or
- (b) where the building works are the works to which section 14AA of the Buildings Ordinance (Cap. 123) applies, on the date of the commencement of the works as indicated in any document submitted to the Building Authority under the regulations made under the Buildings Ordinance (Cap. 123).”.

47. Principal contractors and controllers to retrieve and record data of registered construction workers on construction site

Section 58(9)(b) is repealed and the following substituted –

- “(b) any construction work that is building works, or street works, that are not carried out by or on behalf of the Government is deemed to begin –
- (i) on the date of the Building Authority’s consent in writing for the commencement of the works under section 14(1)(b) of the Buildings Ordinance (Cap. 123); or
 - (ii) where the building works are the works to which section 14AA of the Buildings Ordinance (Cap. 123) applies, on the date of the commencement of the works as indicated in any document submitted to the Building Authority under the regulations made under the Buildings Ordinance (Cap. 123).”.

Explanatory Memorandum

The object of this Bill is to amend the Buildings Ordinance (Cap. 123) (the “Ordinance”) and its subsidiary legislation to –

- (a) introduce “minor works” as a new category of building works to cover building works of a minor nature, and to provide for a new register of minor works contractors who are qualified to carry out the works;
- (b) introduce a set of simplified statutory requirements that may be adopted for commencement of minor works without having obtained the approval and consent of the Building Authority under section 14(1) of the Ordinance;
- (c) provide for matters relating to the appointment, duties and disciplinary measures applicable to an authorized person, a

registered structural engineer, a registered geotechnical engineer, a registered general building contractor, a registered specialist contractor and a registered minor works contractor who is appointed in respect of minor works;

- (d) provide for a scheme to be prescribed in the regulations under which demolition orders will not be made in respect of unauthorized building works or building structures;
- (e) amend the scope of works that are exempt from the regulation of the Ordinance; and
- (f) introduce other miscellaneous amendments to the Ordinance and its regulation, including the following –
 - (i) clarify the procedure for the removal of a name from a register maintained under the Ordinance;
 - (ii) state the purposes for which the information in the registers maintained by the Building Authority under the Ordinance may be made available for public inspection; and
 - (iii) provide for matters relating to the control of drying racks and supporting structure of air-conditioning units.

2. The Bill is divided into 4 Parts.

Part 1 of the Bill

3. Clauses 1 and 2 provide for the short title and commencement.

Part 2 of the Bill

4. Clause 3(1)(a) amends the definition of “contraventions of the provisions of this Ordinance” in section 2(1) of the Ordinance to widen its scope.

5. Clause 3(1)(c) adds new definitions to section 2(1) of the Ordinance as a result of the proposed amendments to the Ordinance. It includes the definitions of “prescribed registered contractor”, “prescribed requirement minor works”, “prescribed requirements”, “registered minor works contractor” and “Secretary”.
6. Clause 4 empowers the Building Authority to designate any category of building works or street works as specialized works.
7. Clause 5(1) removes a spent provision from section 3(5CA) of the Ordinance.
8. Clauses 5(5) and 11 amend sections 3(11A) and 8C of the Ordinance respectively by clarifying the effective date of the removal of a name from a register maintained under the Ordinance.
9. Clauses 5(6) and 10(4) provide for the purposes for which the information kept in the registers under the Ordinance is to be made available for public inspection.
10. Clause 6 amends section 4(1) of the Ordinance to disapply that section in cases of prescribed requirement minor works, so that it is not necessary to appoint an authorized person, a registered structural engineer and a registered geotechnical engineer in respect of those works under section 4(1) of the Ordinance if minor works are to be commenced or carried out without having obtained the approval and consent of the Building Authority under section 14(1) of the Ordinance but with appointments having been made under sections 4A(1) and 9AA(1) of the Ordinance.
11. Clause 7 adds new sections 4A and 4B to the Ordinance –
 - (a) to provide, further to clause 6, for the appointment or nomination in the circumstances prescribed by the regulations, of an authorized person, a registered structural engineer and a registered geotechnical engineer in respect of minor works, in cases where prior approval and consent of the Building Authority are not to be sought for carrying out the minor works; and

- (b) to provide for the duties to be carried out by the appointed or nominated authorized person, registered structural engineer and registered geotechnical engineer, including duties to comply with the prescribed requirements, being the simplified statutory requirements prescribed in the regulations.

12. Clauses 8 and 14(1) and (4)(b) amend sections 5 and 11 of the Ordinance respectively to replace the references to the Secretary for Development by Secretary.

13. Clause 9(1) and (2) amends section 7 of the Ordinance to include new grounds on which the Building Authority may refer to the disciplinary board cases relating to the conduct of authorized persons, registered structural engineers and registered geotechnical engineers.

14. Clause 9(3)(c) amends section 7(2)(ba) of the Ordinance to empower a disciplinary board to impose fines on the persons referred to in that paragraph in cases relating to prescribed requirement minor works and to prohibit such persons from certifying prescribed requirement minor works.

15. Clauses 9(4) and 15(4) add new sections 7(3A) and 13(6A) to the Ordinance respectively to provide that fines imposed by a disciplinary board and any costs of inquiry ordered to be paid to the Building Authority are recoverable as a debt due to the Government.

16. Clause 10(1) amends section 8A(1) of the Ordinance to enable the Building Authority to maintain a register or provisional register of minor works contractors.

17. Clause 10(2) amends section 8A(4) of the Ordinance to enable the Building Authority to remove from the register or provisional register of minor works contractors the name of a registered minor works contractor who ceases to engage in the business of the minor works.

18. Clause 13 adds a new section 9AA to the Ordinance to provide for the appointment, in the circumstances prescribed by the regulations, of a registered

general building contractor, a registered specialist contractor or a registered minor works contractor, in respect of minor works, including prescribed requirement minor works.

19. Clause 14 amends section 11 of the Ordinance to provide for the composition of a disciplinary board that is to hear and determine proceedings against a registered minor works contractor.

20. Clause 15(1) and (2) amends section 13(1) and (2) of the Ordinance respectively to include additional grounds on which the Building Authority may refer cases to a disciplinary board that hears proceedings against registered general building contractors, registered specialist contractors or registered minor works contractors in relation to their conduct.

21. Clause 15(3) –

- (a) amends section 13(4) of the Ordinance to enable a disciplinary board to impose fines on registered general building contractors, registered specialist contractors and registered minor works contractors in cases concerning minor works and to prohibit such a person from carrying out or certifying minor works; and
- (b) provides that a registered contractor is responsible for misconduct concerning minor works on the part of a director or officer or person appointed by the relevant registered contractor to act on his behalf.

22. Clause 16 adds a new section 14AA to the Ordinance to provide that minor works may be commenced or carried out without having obtained the approval and consent of the Building Authority under section 14(1) of the Ordinance but with appointments having been made under sections 4A(1) and 9AA(1) of the Ordinance.

23. Clause 17 amends section 19 of the Ordinance to provide that where urgent works are required to be done and as a result of which there is a deviation from a supervision plan, registered general building contractors, registered specialist

contractors, registered minor works contractors, registered structural engineers, registered geotechnical engineers or the authorized persons (as the case may require) shall prepare a revised supervision plan for submission to the Building Authority.

24. Clause 23 amends section 31 of the Ordinance to provide that if the dimensions of a signboard do not pose a danger to life or property, then it may be erected in, over, under or upon any portion of any street whether or not on land held under lease from the Government.

25. Clause 24 amends section 38 of the Ordinance to provide for regulation making powers concerning matters including classification of minor works, registration of registered minor works contractors, appointment and duties of building professionals and registered minor works contractors, and prescribed requirements.

26. Clause 26 adds a new section 39C to the Ordinance to provide for a scheme to be prescribed in the regulations under which demolition orders will not be made in respect of unauthorized building works or building structures.

27. Clause 27 amends section 40 of the Ordinance to provide the penalties for the offences relating to minor works and other new provisions.

28. Clause 28 amends section 41 of the Ordinance to provide that certain designated exempted works, and building works that do not bear additional loads, are exempt from certain provisions of the Ordinance.

29. Clause 31 provides savings and transitional arrangements relating to minor works.

Part 3 of the Bill

30. Clauses 33 to 44 provide for related amendments to the Building (Administration) Regulations (Cap. 123 sub. leg. A) (the “Administration Regulations”) and the Building (Planning) Regulations (Cap. 123 sub. leg. F) (the “Planning Regulations”), including the following –

- (a) addition of a new regulation 48 to the Administration Regulations to provide that those regulations do not apply to prescribed requirement minor works (clause 42);
- (b) addition of a new definition of “drying rack” to the Planning Regulations (clause 43); and
- (c) addition of a new regulation 7(3) to the Planning Regulations to provide for the control of the drying rack or supporting structure of an air-conditioning unit that is projected over a street (clause 44).

Part 4 of the Bill

31. Clauses 45 to 47 contain consequential amendments to the Construction Workers Registration Ordinance (Cap. 583).



An Introduction to Legislative Proposal on Minor Works Control System



Introduction

Under the Buildings Ordinance, the carrying out of large-scale building works or works of a very small scale (such as the erection of drying racks on the external walls of household apartments) are governed by the same set of stringent controls, including the requirements to obtain prior approval and consent from the Building Authority (i.e. Buildings Department) before commencement of works and to appoint Authorised Persons (i.e., architects, engineers and surveyors registered under the Buildings Ordinance) and registered professionals to design and supervise the works, as well as registered contractors to carry them out.

The requirements of the current system are too stringent for minor works which are of a smaller scale and pose a lower level of risk. This not only creates difficulties on control and enforcement, but also results in many unauthorized building works.

The Government proposes to amend the Buildings Ordinance to introduce a minor works control system to facilitate members of the public to carry out minor works lawfully through simplified procedures with an aim to improving building safety in Hong Kong.

This pamphlet is not a legal document. It aims to outline the main features of the Buildings (Amendment) Bill 2007 to enhance the public's understanding of the minor works control system. For the full text of the Buildings (Amendment) Bill 2007 and the relevant details, please visit the Buildings Department's website at www.bd.gov.hk



Shop front works



Drainage works



Under the proposal, minor works will be classified into three classes according to their scale, complexity and risk to safety and will be subject to different degrees of control:

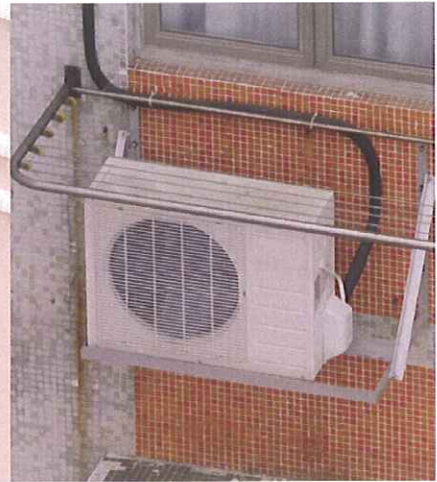
- Class I includes those relatively more complicated minor works, e.g. installation of internal staircases connecting two floors, repair of columns or load bearing walls and removal of large-scale illegal roof-top structures.
- Class II comprises those of a comparatively lower complexity and risk to safety, e.g. repair of non-load bearing external walls, installation or repair of external rendering or external wall tiles and erection of medium-size projecting signboards.
- Class III mainly includes common household minor works, e.g. erection of supporting frames for air-conditioners, drying racks and window canopies.



Erection of internal staircases



Repair of buildings



Household minor works

Procedures for Carrying Out Minor Works

Under the new system, there is no need to obtain prior approval of plans from the Building Authority (i.e. Buildings Department) to undertake minor works. Owners can appoint technical personnel of different qualifications in accordance with the complexity of the works:

Class I Minor Works should be designed and supervised by Authorised Persons (i.e. architects, engineers and surveyors registered under the Buildings Ordinance) and registered professionals, and carried out by registered contractors.

Class II Minor Works only require the appointment of registered Class II contractors (companies).

Class III Minor Works only require the appointment of registered Class III contractors (companies or individual practitioners)



Repair of external walls

Notifications of Minor Works

Depending on the class of minor works, appointed professionals/contractors should:

	Class I	Class II	Class III
provide simple notification and submit plans and documents to the Building Authority for record before commencement of works	✓	✓	✗
submit record plans, certificates and documents to the Building Authority after completion of works	✓	✓	✓

Registration of Minor Works Contractors and Practitioners

A register of minor works contractors will be established under the new system. Contractor companies and individual practitioners can register as minor works contractors of the relevant classes and types by virtue of their work experience, qualifications and competence.

Classes I and II minor works contractors are companies, while Class III minor works contractors can be companies or individuals.

Short top-up training courses will be provided to upgrade the applicants' standards and enhance their knowledge of the new statutory requirements.

Household Minor Works Validation Scheme

A "Household Minor Works Validation Scheme" will be established under the proposed minor works control system to facilitate the public to retain, after validation, three kinds of minor works installations (i.e. supporting frames for air conditioners, drying racks and small canopies) undertaken without the prior approval of the Building Authority before the commencement of the new legislation.

Owners should appoint registered contractors to inspect and certify the works to ensure that the safety requirements are met. Depending on the circumstances, reinforcement works may have to be carried out. Validation reports should be submitted to the Buildings Department.

Enforcement action will not be taken by the Buildings Department against the validated minor works unless their safety conditions change.

Benefits of the New System

- The statutory application procedures for carrying out minor works will be greatly simplified.
- The quality of works can be assured as they will be carried out by registered personnel.
- Through the "Household Minor Works Validation Scheme", certain minor household installations constructed without prior approval can be retained.
- Building safety will be enhanced.

Support Measures

To facilitate public understanding on how to carry out minor works under the new system, the Government will put in place the following support measures:

- The Buildings Department will collaborate with the Hong Kong Housing Society and its Property Management Advisory Centres to provide advisory services to answer public enquiries.
- Tailor-made guidelines will be published for building owners and users from different sectors.
- Detailed technical guidelines will be promulgated for registered contractors.
- Reference information will be uploaded onto the Buildings Department's website for information of the general public.
- Extensive promotion campaigns will be launched to strengthen public understanding of the new system.

Frequently Asked Questions

Under the new system, is it necessary to appoint registered minor works contractors to carry out common household renovation works and other works of a very small scale?

Common household renovation works, such as painting, internal rendering/plastering/wall-paper works and alteration of internal non-load bearing walls are already exempted works under the current Buildings Ordinance.

For the above works, the Building Authority's prior approval of building plans and consent to commence work are not required. It is also not necessary to appoint Authorised Persons, registered professionals and registered contractors to carry out such works.

What are the legal obligations of building owners when they carry out household minor works under the proposed minor works control system?

The new legislation will require building owners to appoint qualified companies or individuals to carry out minor works. An owner may have to bear legal responsibilities if he knowingly contravenes this requirement.

For example, if an owner intentionally appoints a Class III minor works contractor to conduct external rendering works of a building (being Class II minor works), he may be liable to prosecution.

What are the legal obligations of building professionals/contractors in carrying out minor works?

Building professionals/contractors should only undertake the minor works for which they have been registered and they should comply with the relevant statutory and safety requirements. They also have the responsibility to provide accurate advice to building owners concerning the works, for example the classification of the minor works to be conducted and the types of contractor that have to be engaged. If they contravene these requirements, they may be subject to disciplinary action or prosecution.



Household minor works

If unauthorised minor works have been completed in the house without prior approval of the Building Authority before the commencement of the new legislation, what should the owner do under the new system?

Building owners can make use of the "Household Minor Works Validation Scheme" to retain three types of minor works installations (i.e. supporting frames for air conditioners, drying racks and small canopies) undertaken without the prior approval of the Building Authority before the commencement of the new legislation.

Owners can, in accordance with their needs, take the opportunity of large-scale maintenance works of their buildings (e.g. works under the proposed Mandatory Building Inspection Scheme or the Buildings Department's large scale enforcement operations) to validate and retain these three types of unauthorised works using the Scheme. This may help owners to economise on money and time.

All works which commence after the implementation of the new system have to follow the law and will not be covered by the Validation Scheme. Also, the Scheme will not cover works that are in progress when the new system is commenced.

When will the new system come into operation?

The Government will introduce the Buildings (Amendment) Bill 2007 into the Legislative Council to establish the new minor works control system. The Bill has to be scrutinized and passed by the Legislative Council. The Buildings Department will conduct extensive publicity campaigns and make necessary preparations after the passage of the legislation. We expect the new control system can be implemented by the end of 2009 the earliest.



Repair of buildings



Repair of concrete structures

Enquiries

For enquiries about the Buildings (Amendment) Bill 2007, please contact the Buildings Department:

Mailing address: Legal Section, Buildings Department, 18/F, Pioneer Centre, 750 Nathan Road, Mongkok, Kowloon

E-mail address: enquiry@bd.gov.hk

Hotline: 2626 1616

Webpage: www.bd.gov.hk

Annex C

Chapter:	123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section:	2	Interpretation	L.N. 171 of 2004	31/12/2005
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(1) In this Ordinance, unless the context otherwise requires-

"access road" (通路) means a road on land held under lease, licence or otherwise from the Government or on land over which the Government has granted a right of way, providing access only to buildings used or intended to be used wholly or mainly for purposes of habitation, and which is not a street; (Added 44 of 1959 s. 2. Amended 29 of 1998 s. 105)

"Architects Registration Board" (建築師註冊管理局) means the Architects Registration Board established by section 4 of the Architects Registration Ordinance (Cap 408); (Added 54 of 1996 s. 2)

"authorized person" (認可人士) means a person whose name is on the authorized persons' register kept under section 3(1)-

- (a) as an architect;
- (b) as an engineer; or
- (c) as a surveyor; (Replaced 54 of 1996 s. 2)

"building" (建築物) includes the whole, or any part, of any domestic or public building or building which is constructed or adapted for use for public entertainment, arch, bridge, cavern adapted or constructed to be used for the storage of petroleum products, chimney, cook-house, cowshed, dock, factory, garage, hangar, hoarding, latrine, matshed, office, oil storage installation, out-house, pier, shelter, shop, stable, stairs, wall, warehouse, wharf, workshop or tower, sea-wall, breakwater, jetty, mole, quay, cavern or any underground space adapted or constructed for occupation or use for any purpose including its associated access tunnels and access shafts, pylon or other similar structure supporting an aerial ropeway and such other structures as the Building Authority may by notice in the Gazette declare to be a building; (Amended 44 of 1959 s. 2; 19 of 1976 s. 32; 16 of 1978 s. 2; 5 of 1983 s. 2; 68 of 1993 s. 2; 72 of 1995 s. 15)

"Building Authority" (建築事務監督) means the Director of Buildings; (Amended L.N. 76 of 1982; L.N. 94 of 1986; L.N. 291 of 1993)

"building owner" (建築物擁有人) means a person desiring to build a new building or to alter an existing building and shall include the agent of and authorized person appointed by a building owner; (Amended 91 of 1990 s. 2)

"building works" (建築工程) includes any kind of building construction, site formation works, ground investigation in the scheduled areas, foundation works, repairs, demolition, alteration, addition and every kind of building operation, and includes drainage works; (Amended 72 of 1980 s. 3; 41 of 1982 s. 2; 52 of 1990 s. 2)

"composite building" (綜合用途建築物) means a building that is partly domestic and partly non-domestic; (Added 73 of 1983 s. 2)

"contraventions of the provisions of this Ordinance" (違反本條例的條文) includes failure to comply with any order given or any condition imposed by the Building Authority under the provisions of this Ordinance and any material divergence or deviation from any plan approved by him; (Added 44 of 1959 s. 2)

"dangerous building" (危險建築物) means any building in such a condition as to cause risk of injury either to the occupiers or users of such building or to the occupiers or users of any neighbouring building or to the general public;

"design assumption" (設計假定) means an assumption stated or implied in the design

- calculations or other documentation in respect of building works submitted to the Building Authority; (Added 72 of 1980 s. 3)
- "domestic" (住用), when used in relation to a part of a composite building, means a part that is constructed or intended for habitation; (Added 73 of 1983 s. 2)
- "domestic building" (住用建築物) means a building constructed or intended to be used for habitation and the expression "domestic purposes" (住用用途) shall be construed accordingly; (Added 73 of 1983 s. 2)
- "drain" (排水渠) means a drain used for the drainage of one building and any buildings and yards appurtenant thereto; (Added 44 of 1959 s. 2)
- "drainage works" (排水工程) means any work connected with the construction, repair, alteration, disconnexion, trapping and ventilation of drains or sewers; (Added 44 of 1959 s. 2)
- "emergency vehicular access" (緊急車輛通道), in relation to a building, means a vehicular access used or to be used for access of a vehicle of the Fire Services Department to the building in the event of a fire or other emergency; (Added 15 of 2004 s. 2)
- "Engineers Registration Board" (工程師註冊管理局) means the Engineers Registration Board established by section 3 of the Engineers Registration Ordinance (Cap 409); (Added 54 of 1996 s. 2)
- "escalator" (自動梯) has the meaning assigned to it in section 2 of the Lifts and Escalators (Safety) Ordinance (Cap 327); (Added 43 of 1987 s. 44)
- "frontagers" (臨街處所擁有人) means, in the case of a private street the owners of premises fronting, joining or abutting on such street, and in the case of an access road the owners of premises to which such road provides access; (Added 44 of 1959 s. 2)
- "ground investigation" (土地勘測) means any exploratory drilling, boring, excavating and probing of land for obtaining any information on ground conditions and includes the installation of instruments, sampling, field testing, any other site operation and laboratory testing of samples obtained from such operations; (Added 41 of 1982 s. 2)
- "groundwater drainage works" (地下水排水工程) means any work or installation connected with the draining of water flowing, percolating or lying under the surface of land but does not include drainage works as defined in this section; (Added 41 of 1982 s. 2)
- "habitation" (居住) in relation to the use of a building, or part of a building, includes use of it for hotel, guest-house, boarding-house, hostel, dormitory or similar accommodation; (Added 73 of 1983 s. 2)
- "hand-dug caisson" (人工挖掘沉箱) means any foundation or earth-retaining structure, or part thereof, the construction of which includes the excavation of a shaft in the ground by means of digging carried out by any person inside the shaft with or without the aid of machine tools; (Added 6 of 1995 s. 2)
- "Land Registry" (土地註冊處) means the Land Registry referred to in section 2(1) of the Land Registration Ordinance (Cap 128); (Added 55 of 1996 s. 2)
- "lift" (升降機) has the meaning assigned to it in section 2 of the Lifts and Escalators (Safety) Ordinance (Cap 327); (Replaced 43 of 1993 s. 2)
- "new building" (新建築物) means any building hereafter erected and also any existing building of which not less than one half measured by volume is rebuilt or which is altered to such an extent as to necessitate the reconstruction of not less than one half of the superficial area of the main walls;
- "non-domestic" (非住用), when used in relation to a part of a composite building, means a part that is constructed or intended for use otherwise than for habitation; (Added 73 of 1983 s. 2)
- "non-domestic building" (非住用建築物) means a building that is not a domestic building; (Added 73 of 1983 s. 2)
- "occupier" (佔用人) means in the case of domestic buildings a person resident therein and in the

case of other buildings means a person carrying on an occupation full-time in such building;

"oil storage installation" (貯油裝置) means any tank having a capacity of not less than 110000 litres, or a group of tanks any one of which is a tank having a capacity of not less than 110000 litres, constructed above ground level for the purpose of storing petroleum products; (Added 16 of 1978 s. 2. Amended 68 of 1993 s. 2)

"owner" (擁有人) includes any person holding premises direct from the Government whether under lease, licence or otherwise, any mortgagee in possession and any person receiving the rent of any premises, solely or with another, on his own behalf or that of any person, or who would receive the same if such premises were let to a tenant, and where such owner as above defined cannot be found or ascertained or is absent from Hong Kong or is under disability, the agent of such owner; (Amended 29 of 1998 s. 105; 62 of 2000 s. 3)

"performance review" (表現檢討) means a report in respect of building works, submitted by an authorized person, stating and justifying that the building works have been inspected and monitored in the course of construction and that the geotechnical design assumptions upon which the building works have been based are valid; (Added 41 of 1982 s. 2)

"petroleum products" (石油產品) means crude petroleum or petroleum feed-stock and includes-

- (a) semi-refined petroleum; and
- (b) wholly refined petroleum,

which is liquid or solid at ambient temperatures and pressures; (Replaced 68 of 1993 s. 2)

"place of public entertainment" (公眾娛樂場所) and "public entertainment" (公眾娛樂) have the same meanings assigned to them, respectively, by the Places of Public Entertainment Ordinance (Cap 172); (Added 72 of 1995 s. 15)

"plan" (圖則) includes drawings, details, diagrams, calculations, structural details, structural calculations, geotechnical details and geotechnical calculations; (Added 44 of 1959 s. 2 Amended 15 of 2004 s. 2)

"prescribed qualification" (訂明資格) means the qualification prescribed under this Ordinance or by the respective Registration Ordinance for inclusion in the respective register; (Added 54 of 1996 s. 2)

"private street" (私家街道) means a street on land held under lease, licence or otherwise from the Government or on land over which the Government has granted a right of way; (Added 44 of 1959 s. 2. Amended 29 of 1998 s. 105)

"register" (名冊) means a register maintained under this Ordinance and includes a sub-register; (Added 54 of 1996 s. 2)

"registered architect" (註冊建築師) means a person whose name is on the register of registered architects established and maintained under section 8 of the Architects Registration Ordinance (Cap 408); (Added 54 of 1996 s. 2)

"registered general building contractor" (註冊一般建築承建商) means a person whose name is for the time being on the register of general building contractors maintained under section 8A; (Added 54 of 1996 s. 2)

"registered geotechnical engineer" (註冊岩土工程師) means a person whose name is for the time being on the geotechnical engineers' register kept under section 3(3A); (Added 15 of 2004 s. 2)

"registered professional engineer" (註冊專業工程師) means a person whose name is on the register of registered professional engineers established and maintained under section 7 of the Engineers Registration Ordinance (Cap 409); (Added 54 of 1996 s. 2)

"registered professional surveyor" (註冊專業測量師) means a person whose name is on the register of registered professional surveyors established and maintained under section 7 of the Surveyors Registration Ordinance (Cap 417); (Added 54 of 1996 s. 2)

"registered specialist contractor" (註冊專門承建商) means a person whose name is for the time being on the register of specialist contractors maintained under section 8A; (Added 54 of 1996 s. 2)

- "registered structural engineer" (註冊結構工程師) means a person whose name is for the time being on the structural engineers' register kept under section 3(3); (Added 52 of 1974 s. 2)
- "Registration Committee" (註冊事務委員會) means an Authorized Persons Registration Committee, a Structural Engineers Registration Committee, a Geotechnical Engineers Registration Committee or a Contractors Registration Committee, as the case requires; (Added 54 of 1996 s. 2. Amended 15 of 2004 s. 2)
- "Registration Ordinance" (註冊條例) means the Architects Registration Ordinance (Cap 408), the Engineers Registration Ordinance (Cap 409) or the Surveyors Registration Ordinance (Cap 417), as the case may be; (Added 54 of 1996 s. 2)
- "regulations" (規例) means rules and regulations made under this Ordinance;
- "scheduled areas" (附表所列地區) means the areas specified in the Fifth Schedule and references to a building or building works in the scheduled areas are, in the case of a building or building works situated partly in one of the scheduled areas, references to that part of the building or building works so situated; (Replaced 52 of 1990 s. 2)
- "sewer" (污水渠) does not include a drain as defined in this section, but includes all sewers and drains used for the drainage of more than one building and any buildings and yards appurtenant thereto; (Added 44 of 1959 s. 2)
- "signboard" (招牌) means a hoarding, framework, scaffolding or other structure erected solely for the purpose of displaying any advertisement, making any announcement or notification, or displaying any visual image or other information; (Added 15 of 2004 s. 2)
- "site formation works" (地盤平整工程) includes excavations on sloping land, filling, landslip preventive works, landslip remedial works and ground water drainage works; (Added 72 of 1980 s. 3. Amended 41 of 1982 s. 2)
- "specialized works" (專門工程) means the categories of building works or street works the Building Authority designates by notice in the Gazette as works that are required to be carried out by a registered specialist contractor; (Added 54 of 1996 s. 2)
- "specified" (指明), in relation to a form, means specified by the Building Authority under section 22(4); (Added 68 of 1993 s. 2)
- "street" (街道) includes the whole or any part of any square, court or alley, highway, lane, road, road-bridge, footpath, or passage whether a thoroughfare or not;
- "street works" (街道工程) means any work for the construction, formation or laying out of any private street or access road, including the surfacing, channelling, draining and lighting thereof, or for the reconstruction, alteration or repair thereof; (Added 44 of 1959 s. 2)
- "supervision plan" (監工計劃書) means a plan setting out the plan of safety management of building works or street works prepared in compliance with the technical memorandum issued under section 39A; (Added 54 of 1996 s. 2. Amended 15 of 2004 s. 2)
- "Surveyors Registration Board" (測量師註冊管理局) means the Surveyors Registration Board established by section 3 of the Surveyors Registration Ordinance (Cap 417); (Added 54 of 1996 s. 2)
- "ventilating system" (通風系統) means a mechanical system for introducing or exhausting air; (Added 23 of 1971 s. 2)
- "water pipe" (水管) means any water carrying pipe and fittings thereto other than a drain or sewer but does not include any pipe or fitting forming any part of a fire service or inside service within the meaning of the Waterworks Ordinance (Cap 102) the costs of maintenance of which shall, under section 17(2)(b) of that Ordinance, be borne by the Water Authority. (Added 55 of 1996 s. 2)

(Amended 43 of 1993 s. 2; 54 of 1996 s. 2)

(2) The duties imposed on and the powers granted to the Building Authority under this Ordinance may be carried out and exercised by an officer of any Department of the Government specified in the Fourth Schedule who is authorized by the Director of Buildings either generally or particularly and subject to his instructions. (Amended L.N. 76 of 1982; 73 of 1985 s. 2; L.N. 94

of 1986; L.N. 291 of 1993)

(3) The Legislative Council may by resolution amend the Fourth or Fifth Schedule.
(Added 73 of 1985 s. 2. Amended 6 of 1995 s. 2)

(4) Any reference in Part I or VII to registration in any register shall be construed as the inclusion, retention, further retention or restoration of a person's name in or to the relevant register, as the case may require. (Added 77 of 1994 s. 2)

Chapter:	123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section:	3	Registers of authorized persons, structural engineers and geotechnical engineers	L.N. 171 of 2004	31/12/2004
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PART I

AUTHORIZED PERSONS, REGISTERED STRUCTURAL ENGINEERS, REGISTERED GEOTECHNICAL ENGINEERS AND REGISTERED CONTRACTORS

(Amended 52 of 1974 s. 3; 43 of 1987 s. 44; 54 of 1996 s. 3; 15 of 2004 s. 3)

(1) The Building Authority shall keep a register (hereinafter referred to as the "authorized persons' register") of all persons who are qualified to perform the duties and functions of an authorized person in accordance with this Ordinance.

(2) The authorized persons' register contains-

- (a) a list of architects;
- (b) a list of engineers; and
- (c) a list of surveyors. (Replaced 54 of 1996 s. 4)

(3) The Building Authority shall keep a register (hereinafter referred to as the "structural engineers' register") of all persons who are qualified to perform the duties and functions of structural engineers (relating to more advanced structural designs of building works or street works) in accordance with this Ordinance.

(3A) The Building Authority shall keep a register (hereinafter referred to as the "geotechnical engineers' register") of all persons who are qualified to perform the duties and functions of geotechnical engineers (relating to geotechnical designs of building works or street works) in accordance with this Ordinance. (Added 15 of 2004 s. 4)

(4) The Building Authority shall publish annually in the Gazette the names of-

- (a) the persons included in each of the lists in the authorized persons' register; (Amended 15 of 2004 s. 4)
- (b) the persons included in the structural engineers' register; and (Amended 15 of 2004 s. 4)
- (c) the persons included in the geotechnical engineers' register. (Added 15 of 2004 s. 4)

(5) The Building Authority is to establish 3 panels with sufficient members from whom he is to appoint committees to be known respectively as Authorized Persons Registration Committees, Structural Engineers Registration Committees and Geotechnical Engineers Registration Committees. The Building Authority may appoint more than one Registration Committee of each type at any one time. (Replaced 54 of 1996 s. 4. Amended 15 of 2004 s. 4)

(5A) The function of a Registration Committee is to assist the Building Authority in considering applications for inclusion in the relevant register by-

- (a) examining the qualifications of applicants;
- (b) inquiring as the relevant Registration Committee considers necessary to ascertain whether an applicant has the relevant experience;

- (c) conducting professional interviews with applicants; and
 - (d) advising the Building Authority to accept, defer or reject applications for inclusion in the relevant register. (Added 54 of 1996 s. 4)
- (5B) An Authorized Persons Registration Committee consists of-
- (a) 4 authorized persons nominated by the Architects Registration Board from the list of architects in the authorized persons' register;
 - (b) 2 authorized persons nominated by the Engineers Registration Board from the list of engineers in the authorized persons' register;
 - (c) 1 authorized person nominated by the Surveyors Registration Board from the list of surveyors in the authorized persons' register;
 - (d) an Assistant Director of Buildings nominated by the Building Authority; and
 - (e) 1 person selected by the Building Authority from among the persons nominated in accordance with subsection (5E). (Added 54 of 1996 s. 4)
- (5C) A Structural Engineers Registration Committee consists of-
- (a) 3 registered structural engineers nominated by the Engineers Registration Board;
 - (b) 1 authorized person nominated by the Architects Registration Board from the list of architects in the authorized persons' register;
 - (c) 1 authorized person nominated by the Surveyors Registration Board from the list of surveyors in the authorized persons' register;
 - (d) an Assistant Director of Buildings nominated by the Building Authority; and
 - (e) 1 person selected by the Building Authority from among the persons nominated in accordance with subsection (5E). (Added 54 of 1996 s. 4)
- (5CA) A Geotechnical Engineers Registration Committee-
- (a) for the period of 12 months beginning on the commencement* of section 4 of the Buildings (Amendment) Ordinance 2004 (15 of 2004), consists of-
 - (i) 3 registered professional engineers in the geotechnical engineering discipline nominated by the Engineers Registration Board, each of whom shall prior to the nomination have had not less than 15 years of experience in geotechnical engineering;
 - (ii) 1 authorized person nominated by the Architects Registration Board from the list of architects in the authorized persons' register;
 - (iii) 1 authorized person nominated by the Surveyors Registration Board from the list of surveyors in the authorized persons' register;
 - (iv) 1 registered structural engineer nominated by the Engineers Registration Board;
 - (v) the Building Authority's representative;
 - (vi) 1 public officer of the rank of Government Geotechnical Engineer nominated by the Director of Civil Engineering and Development; and
 - (vii) 1 person selected by the Building Authority from among the persons nominated in accordance with subsection (5E);
 - (b) with effect from the expiry of the period referred to in paragraph (a), consists of-
 - (i) 3 registered geotechnical engineers nominated by the Engineers Registration Board;
 - (ii) 1 authorized person nominated by the Architects Registration Board from the list of architects in the authorized persons' register;
 - (iii) 1 authorized person nominated by the Surveyors Registration Board from the list of surveyors in the authorized persons' register;
 - (iv) 1 registered structural engineer nominated by the Engineers Registration Board;
 - (v) the Building Authority's representative;
 - (vi) 1 public officer of the rank of Government Geotechnical Engineer nominated by the Director of Civil Engineering and Development; and
 - (vii) 1 person selected by the Building Authority from among the persons nominated in accordance with subsection (5E); (Added 15 of 2004 s. 4)
- (5D) The Building Authority is to appoint an officer of the Buildings Department as the

secretary of each Registration Committee, who is not a member of either Registration Committee and may not cast a vote. (Added 54 of 1996 s. 4)

(5E) For the purpose of subsections (5B), (5C) and (5CA), the Building Authority is to invite such bodies as the Building Authority may think fit to nominate persons for the Building Authority to consider for appointment to each of the respective Registration Committees. (Added 54 of 1996 s. 4. Amended 15 of 2004 s. 4)

(5F) A person appointed to be a member of the Authorized Persons', Registered Structural Engineers' and Registered Geotechnical Engineers' Disciplinary Board Panel under section 5A must not be a member of a Registration Committee. (Added 54 of 1996 s. 4. Amended 15 of 2004 s. 4)

(5G) The quorum for a meeting of a Registration Committee (other than a Geotechnical Engineers Registration Committee) is- (Amended 15 of 2004 s. 4)

- (a) the Chairman of the committee;
- (b) the Assistant Director of Buildings nominated under subsection (5B)(d) or (5C)(d); and
- (c) 3 other members for an Authorized Persons Registration Committee and 2 other members for a Structural Engineers Registration Committee. (Added 54 of 1996 s. 4)

(5GA) The quorum for a meeting of a Geotechnical Engineers Registration Committee is-

- (a) the Chairman of the committee;
- (b) the Building Authority's representative under subsection (5CA)(a)(v) or (b)(v);
- (c) the public officer nominated under subsection (5CA)(a)(vi) or (b)(vi); and
- (d) 2 other members. (Added 15 of 2004 s. 4)

(5H) At least one member of the Registration Committee at a meeting hearing an application for inclusion in a register must be-

- (a) for an Authorized Persons Registration Committee, on the same list in the authorized persons' register as that on which the applicant wishes to be included; (Amended 15 of 2004 s. 4)
- (b) for a Structural Engineers Registration Committee, a registered structural engineer; (Added 54 of 1996 s. 4. Amended 15 of 2004 s. 4)
- (c) for a Geotechnical Engineers Registration Committee under subsection (5CA)(a), a registered professional engineer nominated under subparagraph (i) of that subsection; and (Added 15 of 2004 s. 4)
- (d) for a Geotechnical Engineers Registration Committee under subsection (5CA)(b), a registered geotechnical engineer nominated under subparagraph (i) of that subsection. (Added 15 of 2004 s. 4)

(5I) The Chairman of a Registration Committee is elected by its members. (Added 54 of 1996 s. 4)

(5J) A Registration Committee is required to meet as often as the Building Authority directs. (Added 54 of 1996 s. 4)

(6) Every applicant for inclusion in the authorized persons' register, the structural engineers' register or the geotechnical engineers' register shall submit his application in the specified form to the secretary of the respective Registration Committee. (Amended 68 of 1993 s. 3; 15 of 2004 s. 4)

(6A) An applicant under subsection (6)-

- (a) (Repealed 15 of 2004 s. 4)
- (b) shall pay-
 - (i) upon submission of the application, the non-refundable prescribed fee for processing of the application;
 - (ii) upon the application being granted, the respective prescribed fees for inclusion and retention of his name in the appropriate register. (Replaced 39 of 2000 s. 2)

(7) A person must not be included in a register unless-

- (a) he has obtained the prescribed qualifications; and
- (b) he is recommended by the respective Registration Committee for inclusion.

(Replaced 54 of 1996 s. 4)

(7A) If an applicant for inclusion in a register fails to satisfy subsection (7), the Building Authority shall refuse the application. (Added 54 of 1996 s. 4)

(7B) If an applicant for inclusion in a register satisfies subsection (7), the Building Authority shall grant the application unless for other reasons he thinks fit to refuse the application. (Added 54 of 1996 s. 4)

(7C) The Building Authority shall give reasons in writing to-

- (a) the applicant for the refusal of an application for inclusion in a register;
- (b) the respective Registration Committee for the refusal of an application for inclusion in a register,

and the reasons must refer to the requirements of subsections (7) and (7B). (Added 54 of 1996 s. 4)

(7D) In subsections (7) to (7C), "register" (名冊) means the authorized persons' register kept under subsection (1), the structural engineers' register kept under subsection (3) or the geotechnical engineers' register kept under subsection (3A), as the case may be. (Added 54 of 1996 s. 4. Amended 15 of 2004 s. 4)

(8) Subject to subsection (7), a person's name may be included in more than one of the following registers- (Amended 15 of 2004 s. 4)

- (a) the authorized persons' register;
- (b) the structural engineers' register; and
- (c) the geotechnical engineers' register,

and in more than one list in the authorized persons' register. (Amended 15 of 2004 s. 4)

(9) In respect of every application for inclusion in any list in the authorized persons' register, in the structural engineers' register or in the geotechnical engineers' register, the Building Authority shall within 3 months from the date of the meeting of the respective Registration Committee at which the application was considered- (Amended 15 of 2004 s. 4)

- (a) on payment by the applicant of the prescribed fees mentioned in subsection (6A)(b)(ii), publish in the Gazette and enter in the appropriate list or, as the case may be, register the name of that applicant; or (Replaced 39 of 2000 s. 2)
- (b) inform the applicant that his application is deferred for a period not exceeding 12 months; or
- (c) refuse his application.

(9A) An application that has been deferred under subsection (9)(b) shall, when it comes up for consideration again-

- (a) be accepted, so that the applicant is included in the appropriate list or registered, as the case may be, upon payment of the prescribed fee; or
- (b) be refused. (Added 57 of 1987 s. 3)

(9B) A person-

- (a) whose name is included or retained in or restored to the authorized persons' register, the structural engineers' register or the geotechnical engineers' register, under this section,
- (b) (Repealed 15 of 2004 s. 4)

may apply to the Building Authority, in accordance with subsection (9C), for the further retention or retention, as may be appropriate, of his name in the register for a period of 5 years. (Added 77 of 1994 s. 3. Amended 15 of 2004 s. 4)

(9C) An application under subsection (9B) shall be-

- (a) in the specified form;
- (b) made so as to be received by the Building Authority not earlier than 4 months and not later than 28 days prior to the date of the expiry of the relevant registration; and (Replaced 54 of 1996 s. 4)
- (c) accompanied by the appropriate prescribed fee; (Added 77 of 1994 s. 3)
- (d) accompanied by a copy of a valid certificate of registration or of renewal of registration issued under the respective Registration Ordinance. (Added 54 of 1996 s. 4)

(9D) The Building Authority shall refuse an application under subsection (9B) unless the applicant holds the prescribed qualifications for registration as an authorized person, a registered structural engineer or a registered geotechnical engineer. (Added 54 of 1996 s. 4. Amended 15 of 2004 s. 4)

(9E) The registration of an authorized person, structural engineer or geotechnical engineer will continue to be in force if he makes an application for retention within the time limit and pays the retention fee until his application for retention is finalised by the Building Authority, subject to any decision of the relevant Disciplinary Board. (Added 54 of 1996 s. 4. Amended 15 of 2004 s. 4)

(10) (Repealed 15 of 2004 s. 4)

(11) The Building Authority may remove from the authorized persons' register, the structural engineers' register or the geotechnical engineers' register, after sending by post notice of his intention to the last known address of the person, the name of any person who- (Amended 15 of 2004 s. 4)

(a) is deceased; or (Amended 77 of 1994 s. 3)

(b) is not practising the profession in respect of which the name of that person was included in the register. (Replaced 75 of 1976 s. 2. Amended 77 of 1994 s. 3)

(c) (Repealed 77 of 1994 s. 3)

(11A) A name included or retained in or restored to the authorized persons' register, the structural engineers' register or the geotechnical engineers' register or more than one such register under this section shall be removed by the Building Authority (with or without notice to the person concerned) if the Building Authority does not- (Amended 15 of 2004 s. 4)

(a) before the date of expiry of the relevant registration, receive an application under subsection (9B) as regards such registration; or

(b) allow such an application received by him,

and any such removal shall be effective from the date of expiry of that registration. (Added 77 of 1994 s. 3)

(11B) The Building Authority shall remove a name included or retained in or restored to the authorized persons' register, the structural engineers' register or the geotechnical engineers' register under this section if the Building Authority receives notice that an authorized person, a registered structural engineer or a registered geotechnical engineer has ceased to hold the prescribed qualifications by virtue of which he was registered. (Added 54 of 1996 s. 4. Amended 15 of 2004 s. 4)

(11C) The Building Authority shall give notice of the removal of a name from a register under subsection (11B), by prepaid registered post to the person's last known address. (Added 54 of 1996 s. 4)

(12) A person whose name is removed under subsection (11A), (11B) or (11C) may, within 2 years beginning on the date the relevant registration expires, apply for the restoration of his name to the relevant register. (Replaced 77 of 1994 s. 3)

(13) An application under subsection (12) shall-

(a) be in the specified form;

(b) (Repealed 54 of 1996 s. 4)

(c) be accompanied by the prescribed fee for such restoration and the prescribed fee for retention of registration for 5 years; (Added 77 of 1994 s. 3. Amended 15 of 2004 s. 4)

(d) be accompanied by a copy of a valid certificate of registration or of renewal of registration issued under the respective Registration Ordinance. (Added 54 of 1996 s. 4)

(13A) The Building Authority shall refuse an application under subsection (12) unless the applicant holds the prescribed qualifications for registration as an authorized person, a registered structural engineer or a registered geotechnical engineer. (Added 54 of 1996 s. 4. Amended 15 of 2004 s. 4)

(14) Where the Building Authority allows an application made under subsection (6), (9B) or (12) he shall-

(a) issue to the applicant as regards the relevant registration a certificate of registration,

- which shall be in effect until the expiry of that registration; and
- (b) in the case of an application under subsection (12), restore the name of the applicant to the relevant register. (Added 77 of 1994 s. 3)
- (15) A registration under this section shall-
- (a) be effective, in the case of-
- (i) an inclusion in or restoration to a register of a person's name, from the date of such inclusion or restoration; and
- (ii) a retention or further retention of a person's name in a register, from the date of the expiry of the previous registration; and
- (b) expire, unless the person's name is removed from the relevant register by order of a disciplinary board, at the expiry of 5 years from the effective date of registration calculated in accordance with paragraph (a). (Replaced 54 of 1996 s. 4. Amended 15 of 2004 s. 4)
- (16) The Building Authority is required to give reasons in writing for a decision not to include, retain or restore a person's name in a register at the time of giving notice of the refusal. (Added 54 of 1996 s. 4)
- (Replaced 52 of 1974 s. 4. Amended 54 of 1996 s. 4)

Note:

* **Commencement date: 31 December 2004.**

Chapter:	123	BUILDINGS ORDINANCE	Gazette Number	Version Date
Section:	4	Appointment and duties of authorized person, registered structural engineer or registered geotechnical engineer	L.N. 171 of 2004	31/12/2005

- (1) Every person for whom building works or street works are to be carried out shall appoint-
- (a) an authorized person as the co-ordinator of such building works or street works; (Amended 15 of 2004 s. 5)
- (b) a registered structural engineer for the structural elements of such building works or street works if so required under this Ordinance; and (Amended 54 of 1996 s. 5; 15 of 2004 s. 5)
- (c) a registered geotechnical engineer for the geotechnical elements of such building works or street works if so required under this Ordinance. (Added 15 of 2004 s. 5)
- (2) If an authorized person, a registered structural engineer or a registered geotechnical engineer so appointed becomes unwilling to act or unable, whether by reason of the termination of his appointment or for any other reason, to act, the person for whom the building works or street works are to be or are being carried out shall appoint another authorized person, registered structural engineer or registered geotechnical engineer, as the case may be, in his stead:
- Provided that, where an authorized person, a registered structural engineer or a registered geotechnical engineer, 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 to act in his stead for the period of such illness or absence. (Amended 15 of 2004 s. 5)
- (3) Any authorized person, any registered structural engineer and any registered geotechnical engineer appointed or nominated under subsection (1) or (2) shall- (Amended 15 of 2004 s. 5)
- (a) supervise the carrying out of the building works or street works, as the case may be, in accordance with the supervision plan; (Amended 54 of 1996 s. 5)

- (b) notify the Building Authority of any contravention of the regulations which would result from the carrying out of any work shown in any plan approved by the Building Authority in respect of the building works or street works; and
 - (c) comply generally with this Ordinance.
 - (4) A structural engineer may not be appointed under subsection (1)(b) unless he is registered in the structural engineers' register. (Amended 54 of 1996 s. 5)
 - (5) A geotechnical engineer may not be appointed under subsection (1)(c) unless he is registered in the geotechnical engineers' register. (Added 15 of 2004 s. 5)
- (Replaced 52 of 1974 s. 4)

Chapter:	123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section:	5	Appointment and powers of disciplinary board	L.N. 130 of 2007	01/07/2007
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(1) For the purposes of section 7, the Secretary for Development may, from time to time, appoint a disciplinary board. (Amended 77 of 1994 s. 4; 36 of 1997 s. 2; L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007)

(2) Every such board shall consist of-

- (a) 4 persons who are members of the Authorized Persons', Registered Structural Engineers' and Registered Geotechnical Engineers' Disciplinary Board Panel appointed under section 5A, at least 1 of whom is on the same register and, in the case of the authorized persons' register, on the same list of the register as the person about whom the inquiry is being held; and (Replaced 54 of 1996 s. 6. Amended 36 of 1997 s. 2; 15 of 2004 s. 6)
- (b) 1 person selected from among the persons nominated in accordance with subsection (3A). (Replaced 36 of 1997 s. 2)
- (c) (Repealed 54 of 1996 s. 6)

(2A)The chairman of a disciplinary board shall appoint a legal adviser to assist in the conduct of the hearing of the disciplinary proceedings and to advise the disciplinary board on points of law that arise during the hearing. The disciplinary board may confer with the legal adviser after the conclusion of the hearing and before it hands down its decision but only after giving the person who is the subject of the hearing and his legal representative, if any, the right to be present while the legal adviser gives advice to the disciplinary board and the right to comment on the matters raised by the legal adviser to the disciplinary board. (Added 54 of 1996 s. 6)

(2B)An authorized person, a registered structural engineer or a registered geotechnical engineer, against whom disciplinary proceedings are taken, is entitled to be represented by a legal practitioner at disciplinary proceedings. (Added 54 of 1996 s. 6. Amended 15 of 2004 s. 6)

(3) The chairman of a disciplinary board appointed under this section shall be elected from the members of the board by its members. (Amended 36 of 1997 s. 2)

(3A)For the purpose of subsection (2)(b), the Building Authority is to invite such bodies as the Building Authority may think fit to nominate persons for the Secretary for Development to consider for appointment to the disciplinary board. (Added 36 of 1997 s. 2. Amended L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007)

(4) For the purposes of any inquiry under section 7, a disciplinary board appointed under this section shall have all such powers as are vested in the Court of First Instance in relation to- (Amended 25 of 1998 s. 2)

- (a) enforcing the attendance of witnesses and examining them upon oath or otherwise;
- (b) compelling the production of documents;
- (c) ordering the inspection of premises; and

(d) entering upon and viewing premises.

(5) The members of any disciplinary board appointed under this section, other than persons who are in full-time employment in any office of emolument under the Government, shall be remunerated at such rate as the Chief Executive may determine from time to time or in any particular case. (Amended 62 of 2000 s. 3)

(Replaced 52 of 1974 s. 4)

Chapter:	123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section:	7	Disciplinary proceedings for authorized person, registered structural engineer or registered geotechnical engineer	L.N. 171 of 2004	31/12/2005
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(1) The Building Authority may bring to the notice of a disciplinary board appointed under section 5 the matters set out in subsection (1A) in relation to an authorized person, a registered structural engineer or a registered geotechnical engineer if the conduct referred to the disciplinary board may- (Amended 15 of 2004 s. 8)

- (a) render the person unfit to remain on the relevant register;
- (b) make further inclusion of the person on the relevant register prejudicial to the due administration of this Ordinance; or
- (c) render the authorized person, registered structural engineer or registered geotechnical engineer deserving of suspension from the register, a fine or a reprimand. (Replaced 54 of 1996 s. 8)

(1A) The matters referred to in subsection (1) are that the person-

- (a) has been convicted by any court of an offence related to carrying out his professional duties;
- (b) has been negligent or has misconducted himself in a professional way;
- (c) has permitted a material deviation from a supervision plan for which he is responsible without reasonable cause;
- (d) has drawn up a supervision plan that does not comply with the material requirements of this Ordinance;
- (e) has repeatedly drawn up supervision plans that do not comply with the requirements of this Ordinance. (Added 54 of 1996 s. 8)

(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 of such an offence, has been negligent or has misconducted himself in a professional way or has deviated in a material manner from a supervision plan without reasonable cause or has drawn up a supervision plan that does not comply with the material requirements of this Ordinance or has repeatedly drawn up supervision plans that do not comply with the requirements of this Ordinance, in the manner referred to in subsection (1A)(a), (b), (c), (d) or (e), the disciplinary board may- (Amended 54 of 1996 s. 8; 15 of 2004 s. 8)

- (a) order that the name of such person be removed-
 - (i) from the authorized persons', structural engineers' or geotechnical engineers' register, as the case may be; or
 - (ii) if his name appears in more than one such register, from those registers, either permanently or for such period as the board thinks fit; or
- (b) order that such person be reprimanded; or (Amended 15 of 2004 s. 8)
- (ba) order that the authorized person, registered structural engineer or registered geotechnical engineer be fined a sum not exceeding \$250000, which is recoverable as a debt due to the Government. (Added 54 of 1996 s. 8. Amended 15 of 2004 s.

8)

(c) (Repealed 15 of 2004 s. 8)

(2A) Where the disciplinary board makes an order under subsection (2), it shall order that its findings and order be published in the Gazette. (Added 15 of 2004 s. 8)

(3) On an inquiry under this section, a disciplinary board may make such order as it thinks fit with regard to the payment of the costs of the inquiry and the costs of the Building Authority or of the authorized person, registered structural engineer or registered geotechnical engineer in respect of whom the inquiry is held.

(4) (a) Any authorized person, registered structural engineer or registered geotechnical engineer aggrieved by any order made in respect of him under this section may appeal to a judge of the Court of First Instance and upon any such appeal the judge may confirm, reverse or vary the order of the disciplinary board. (Amended 54 of 1996 s. 8; 25 of 1998 s. 2)

(b) The practice in relation to any such appeal shall be subject to any rules of court made under the High Court Ordinance (Cap 4). (Amended 25 of 1998 s. 2)

(c) The decision of the judge on any such appeal shall be final. (Amended L.N. 137 of 1981)

(Replaced 52 of 1974 s. 6. Amended 15 of 2004 s. 8)

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Section:	8A	Registers of contractors, etc.	L.N. 172 of 1998	01/04/1998
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Remarks:

1. L.N. 532 of 1997 brought 54 of 1996 s. 9 into operation on 7 November 1997 (in so far as that section repeals section 8 in respect of registered contractors and substitutes the new section 8, 8A, 8B, 8C, 8D, 8E, 8F and 8G in respect of registered general building contractors).
2. Remaining provisions of this section have commenced operation since 1 April 1998.

(1) The Building Authority is to keep-

- (a) a register of general building contractors who are qualified to perform the duties of a general building contractor; and
- (b) a register of specialist contractors who are qualified to carry out specialized works specified in the category in the sub-register in which they are entered.

(2) The Building Authority may by notice in the Gazette specify different categories of specialized works and is to maintain sub-registers in the register of specialist contractors for the different categories.

(3) The Building Authority is required to publish a list of the names of the contractors in each register annually in the Gazette.

(4) The Building Authority may remove from-

- (a) the register of general building contractors the name of a registered general building contractor who ceases, for any reason, to engage in the business of building works or street works;
- (b) the register of specialist contractors the name of a registered specialist contractor who ceases, for any reason, to engage in the relevant specialized works for which he is registered.

(5) The Building Authority may remove the name of a partner, director or other person appointed by a body corporate to act for it for the purposes of this Ordinance of a registered general building contractor or a registered specialist contractor-

- (a) whose name is removed under subsection (4); or

- (b) if a disciplinary board appointed under section 11 orders the removal of the name.
(Added 54 of 1996 s. 9)

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Section:	8C	Renewal of registration as a contractor	L.N. 171 of 2004	31/12/2004
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- (1) A contractor may apply to the Building Authority for the renewal of his registration-
 - (a) if his name is on any one of the registers. (Replaced 15 of 2004 s. 11)
 - (b) (Repealed 15 of 2004 s. 11)
- (2) An application for renewal of registration must-
 - (a) be in the specified form;
 - (b) be accompanied by a declaration in the specified form, the information and the documentary proof that the Building Authority may reasonably require to be satisfied that the applicant is suitable to continue to be registered;
 - (c) be received by the Building Authority not earlier than 4 months and not later than 28 days prior to the date of the expiry of the relevant registration; and (Amended 15 of 2004 s. 11)
 - (d) (Repealed 15 of 2004 s. 11)
 - (e) be accompanied by the prescribed renewal fee.
- (3) The registration of a contractor will continue to be in force if he makes an application for renewal within the time limit and pays the renewal fee until his application for renewal is finalised by the Building Authority, subject to any decision of the Registered Contractors' Disciplinary Board.
- (4) The Building Authority may seek the advice of the relevant Contractors Registration Committee on the renewal of registration. (Amended 15 of 2004 s. 11)
- (5) The Building Authority may refuse an application for renewal of registration-
 - (a) if he is satisfied that the applicant is no longer suitable (for any reason) for registration on the relevant register; or
 - (b) if the applicant fails to provide relevant information and documentary proof required by the Building Authority including, but not limited to, updated information on matters supplied on previous applications for registration or renewal of registration.
- (6) The Building Authority is to remove a name on a register, after sending by post notice to the last known address of the person, with effect from the date of expiry of the registration if the Building Authority does not-
 - (a) before the date of the expiry of the registration, receive an application for renewal of the registration; or
 - (b) allow the application.
- (7) The Building Authority is to issue a certificate of registration on renewing the registration of a contractor.
- (8) A registration renewed under this section expires, unless the contractor's name is removed from the relevant register by order of a disciplinary board, on the expiry of 3 years beginning on the date of the expiry of the previous registration. (Added 15 of 2004 s. 11)
(Added 54 of 1996 s. 9)

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Section:	9	Appointment and duties of registered contractors	L.N. 171 of 2004	31/12/2004
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(1) A person is required to appoint a registered general building contractor to carry out for him building works or street works other than specialized works.

(2) A person is required to appoint a registered specialist contractor to carry out for him specialized works of the category for which the contractor is registered.

(3) A person is required to appoint another registered general building contractor to continue to carry out for him building works or street works other than specialized works if the appointed registered general building contractor for the works is unwilling or unable to act.

(4) A person is required to appoint another registered specialist contractor to continue to carry out for him specialized works of the category for which the contractor is registered if the appointed registered specialist contractor for the works is unwilling or unable to act.

(5) A registered general building contractor appointed to carry out building works or street works other than specialized works is required to-

- (a) provide continuous supervision to the carrying out of the works in accordance with his supervision plan;
- (b) notify the Building Authority of any contravention of the regulations that would result from carrying out the works shown in the plan approved by the Building Authority for the works; and
- (c) comply generally with this Ordinance.

(6) A registered specialist contractor appointed to carry out specialized works is required to-

- (a) provide continuous supervision to the carrying out of the works in accordance with his supervision plan;
- (b) notify the Building Authority of any contravention of the regulations that would result from carrying out the works shown in the plan approved by the Building Authority for the works; and
- (c) comply generally with this Ordinance.

(7) (Repealed 15 of 2004 s. 15)

(Replaced 54 of 1996 s. 10)

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Section:	11	Appointment and powers of disciplinary board	L.N. 130 of 2007	01/07/2007
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(1) The Secretary for Development may from time to time, appoint a disciplinary board. (Amended 77 of 1994 s. 7; 54 of 1996 s. 11; L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007)

(2) Every board appointed to hear and determine any proceedings against a registered general building contractor shall consist of- (Amended 77 of 1994 s. 7; 54 of 1996 s. 11)

- (a) 3 persons who are members of the Registered Contractors' Disciplinary Board Panel appointed under section 11A; (Amended 36 of 1997 s. 4)
- (b) 4 persons who are members of the Authorized Persons', Registered Structural Engineers' and Registered Geotechnical Engineers' Disciplinary Board Panel appointed under section 5A of whom- (Amended 54 of 1996 s. 11; 15 of 2004 s. 16)

- (i) 1 shall be a person referred to in section 5A(2)(a);
- (ii) 1 shall be a person referred to in section 5A(2)(b); and
- (iii) 1 shall be a person referred to in section 5A(2)(c);
- (iv) 1 shall be a person referred to in section 5A(2)(d); (Added 54 of 1996 s. 11)
- (c) 1 person selected from among the persons nominated in accordance with subsection (4A). (Replaced 36 of 1997 s. 4)
- (d) (Repealed 36 of 1997 s. 4)

(3) Every board appointed to hear and determine any proceedings under section 13 against a registered specialist contractor shall consist of- (Amended 43 of 1987 s. 44; 77 of 1994 s. 7; 54 of 1996 s. 11)

- (a) 2 persons who are members of the Registered Contractors' Disciplinary Board Panel who are in the same sub-register of specialized works as the specialist contractor about whom the disciplinary board is to inquire; (Replaced 54 of 1996 s. 11)
- (b) (i) in the case where the matters to be brought to the notice of the board relate to geotechnical works, 5 persons who are members of the Authorized Persons', Registered Structural Engineers' and Registered Geotechnical Engineers' Disciplinary Board Panel of whom—
 - (A) 1 shall be a person referred to in section 5A(2)(a);
 - (B) 1 shall be a person referred to in section 5A(2)(b);
 - (C) 1 shall be a person referred to in section 5A(2)(c);
 - (D) 1 shall be a person referred to in section 5A(2)(d); and
 - (E) 1 shall be a person referred to in section 5A(2)(e); and
- (ii) in other cases, 4 persons who are members of the Panel referred to in subparagraph (i) of whom—
 - (A) 1 shall be a person referred to in section 5A(2)(a);
 - (B) 1 shall be a person referred to in section 5A(2)(b);
 - (C) 1 shall be a person referred to in section 5A(2)(c); and
 - (D) 1 shall be a person referred to in section 5A(2)(d); (Replaced 15 of 2004 s. 16)
- (c) 1 person selected from among the persons nominated in accordance with subsection (4A). (Replaced 36 of 1997 s. 4)
- (d) (Repealed 54 of 1996 s. 11)

(3A) The chairman of a disciplinary board shall appoint a legal adviser to assist in the conduct of the hearing of the disciplinary proceedings and to advise the disciplinary board on points of law that arise during the hearing. The disciplinary board may confer with the legal adviser after the conclusion of the hearing and before it hands down its decision but only after giving the person who is the subject of the hearing and his legal representative, if any, the right to be present while the legal adviser gives advice to the disciplinary board and the right to comment on the matters raised by the legal adviser to the disciplinary board. (Added 54 of 1996 s. 11)

(3B) A registered general building contractor or a registered specialist contractor, against whom disciplinary proceedings are taken, is entitled to be represented by a legal practitioner at disciplinary proceedings. (Added 54 of 1996 s. 11)

(4) The chairman of a disciplinary board appointed under subsection (1) shall be elected from the members of the board by its members.

(4A) For the purpose of subsections (2)(c) and (3)(c), the Building Authority is to invite such bodies as the Building Authority may think fit to nominate persons for the Secretary for Development to consider for appointment to the disciplinary board. (Added 36 of 1997 s. 4. Amended L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007)

(5) For the purposes of any inquiry under section 13, a disciplinary board appointed under this section shall have all such powers as are vested in the Court of First Instance in relation to- (Amended 25 of 1998 s. 2)

- (a) enforcing the attendance of witnesses and examining them upon oath or otherwise;
- (b) compelling the production of documents;
- (c) ordering the inspection of premises; and

(d) entering upon and viewing premises.

(6) The members of any disciplinary board appointed under this section, other than persons who are in full-time employment in any office of emolument under the Government, shall be remunerated at such rate as the Chief Executive may determine from time to time or in any particular case. (Added 16 of 1966 s. 4. Amended 62 of 2000 s. 3)

(Amended 52 of 1974 s. 7; 36 of 1997 s. 4)

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Section:	13	Disciplinary proceedings for contractors	L.N. 171 of 2004	31/12/2004
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(1) The Building Authority may bring to the notice of a disciplinary board appointed under section 11 the matters set out in subsection (2) in relation to a registered general building contractor or a registered specialist contractor if the conduct referred to the disciplinary board may-

- (a) render the contractor unfit to be on the register;
- (b) make the further inclusion of the contractor in the register prejudicial to the due administration of this Ordinance; or
- (c) render the contractor deserving of suspension from the register, a fine or a reprimand.

(2) The matters referred to in subsection (1) are that the person-

- (a) has been convicted by any court of an offence relating to building works or street works;
- (b) has been negligent or has misconducted himself in building works or street works;
- (c) has deviated in a material manner from a supervision plan without reasonable cause;
- (d) has drawn up a supervision plan that does not comply with the material requirements of this Ordinance;
- (e) has repeatedly drawn up supervision plans that do not comply with the requirements of this Ordinance.

(3) The Building Authority may, in bringing to the notice of a disciplinary board a conviction, negligence or misconduct of a registered contractor that is a body corporate or is operating as a partnership, refer the names of the directors, officers, any person appointed to act for the body corporate for the purposes of this Ordinance and its partners to the disciplinary board for its consideration and action.

(4) Where, after due inquiry, the disciplinary board is satisfied that the contractor, director, officer or other person appointed by a registered contractor to act on its behalf for the purposes of this Ordinance has been convicted of the offence, has been negligent or has misconducted himself in building works or street works or has deviated in a material manner from a supervision plan without reasonable cause or has drawn up a supervision plan that does not comply with the material requirements of this Ordinance or has repeatedly drawn up supervision plans that do not comply with the requirements of this Ordinance, in the manner referred to in subsection (2)(a), (b), (c), (d) or (e) the board may-

- (a) order that the name of the contractor, director, officer or other person be removed from the relevant register either permanently or for such period as the board thinks fit; or
- (b) order that the contractor, director, officer or other person be fined a sum not exceeding \$250000, which is recoverable as a debt due to the Government; or
- (c) order that the contractor, director, officer or other person be reprimanded.

(Amended 15 of 2004 s. 17)

(d) (Repealed 15 of 2004 s. 17)

(4A) Where the disciplinary board makes an order under subsection (4), it shall order that its findings and order be published in the Gazette. (Added 15 of 2004 s. 17)

(5) In making an order in respect of a director, officer or other person appointed by a registered contractor to act on its behalf for the purposes of this Ordinance, the board may remove the director, officer or other person from any other company with respect to which he is registered under this Ordinance.

(6) A disciplinary board may make an order as it thinks fit for the payment of the costs of the inquiry or for the payment of the costs of the Building Authority or of the contractor, director, officer or other person about whom the inquiry is held.

(7) A registered general building contractor, registered specialist contractor, director, officer or other person aggrieved by an order made in respect of him under this section may appeal to a judge of the Court of First Instance. (Amended 25 of 1998 s. 2)

(8) On an appeal the judge may confirm, reverse or vary the order of the disciplinary board.

(9) The practice for the appeal is subject to any rules of court made under the High Court Ordinance (Cap 4). (Amended 25 of 1998 s. 2)

(10) The decision of the judge is final.

(Replaced 54 of 1996 s. 13)

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Section:	19	Provision for urgent work	L.N. 171 of 2004	31/12/2005
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(1) Where-

- (a) any accident or emergency renders it necessary to shore up, underpin, demolish or otherwise make safe any existing building, or any natural, formed or man-made land, or to carry out any street works immediately; and
- (b) notice in the specified form of such work and of the accident or emergency which necessitated the same is given to the Building Authority by the building owner, or the owner of the land or other person who under the terms of a Government lease, is under an obligation to maintain the land, or by the person for whom the street works are being, or are to be, carried out either before such work is authorized by him or within 48 hours after it has been commenced whichever is the earlier, (Amended 68 of 1993 s. 10; 29 of 1998 s. 105)

such work may be commenced without obtaining the Building Authority's consent.

(2) If the Building Authority considers that the emergency no longer exists he may by order in writing served on the building owner, or the owner of the land or other person referred to in subsection (1), or person for whom the street works are being carried out require that building works cease until consent is obtained.

(3) Any person may deviate from a supervision plan if urgent works are required to ensure safety of building works or street works to which the supervision plan relates. (Added 54 of 1996 s. 17)

(4) The authorized person is required to give to the Building Authority as soon as practicable after the urgent work arises notice of-

- (a) any material deviation from the supervision plan;
- (b) the urgent work;
- (c) a revised supervision plan prepared by the registered general building contractor, the registered specialist contractor, the registered structural engineer, the registered geotechnical engineer or the authorized person, as the case may require, detailing the procedures adopted to meet the urgent work; and (Amended 15 of 2004 s. 20)
- (d) any further amendments to any supervision plan arising out of the urgent work. (Added 54 of 1996 s. 17)

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Section:	21	Occupation of new building	L.N. 259 of 2000	01/11/2000
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(1) No new building shall be occupied in any way except by not more than 2 caretakers unless-

- (a) in respect of such building the Building Authority has issued an occupation permit; or
- (b) in respect of the whole or any part of the building which is being occupied there is a temporary occupation permit, issued by the Building Authority, which temporary occupation permit has not expired and has not been revoked by the Building Authority. (Amended 23 of 1969 s. 5; 68 of 1993 s. 12)

(2) On receiving an application in the appropriate specified form, the Building Authority may issue- (Amended 68 of 1993 s. 12)

- (a) an occupation permit in respect of the new building which is the subject of such application; or
- (b) a temporary occupation permit in respect of the whole or any part of a new building which is completed and which is the subject of the application. (Amended 23 of 1969 s. 5)

(3) On the issue of a temporary occupation permit, the Building Authority may impose such conditions as he may consider necessary including a condition limiting the duration of the temporary occupation permit to such period as he may consider necessary and may revoke a temporary occupation permit for breach of any such condition by the service on the building owner of notice of revocation in writing. (Amended 68 of 1993 s. 12)

(4) If an occupation permit is issued in respect of a building, every temporary occupation permit issued in respect of the whole or any part of the building shall thereupon be deemed to have been revoked. (Amended 23 of 1969 s. 5)

(5) If a temporary occupation permit in respect of the whole or a part of a building has been revoked or has expired and an occupation permit has not been issued in respect of the building, the provisions of subsection (1) shall apply to the building or to such part of the building, as the case may be, on the expiration of 7 days from the expiry or revocation of the temporary occupation permit. (Amended 23 of 1969 s. 5)

(6) The Building Authority may refuse to issue a temporary occupation permit or an occupation permit under this section where-

- (a) any part of the building works has been carried out in contravention of any of the provisions of this Ordinance;
- (b) any street works required under the provisions of this Ordinance in connexion with any new private street or any access road, on to which the building abuts or fronts or by which access is obtained, remain to be completed;
- (c) in the case of a building in which a liftway is provided, a lift has not yet been installed therein, unless the liftway has been protected to the satisfaction of the Building Authority in such manner as to avoid any danger to persons using the building;
- (d) in the case of a building the plans whereof were certified by the Director of Fire Services in the terms indicated in section 16(1)(b)(ii), the applicant for the permit fails to produce to the Building Authority a certificate from the Director of Fire Services in such form as may be prescribed certifying that he is satisfied that the

fire service installations and equipment shown on the plans aforesaid have been provided and are in efficient working order and satisfactory condition; (Added 3 of 1964 s. 3)

- (e) in the case of a building to which by regulations a supply of water is required to be connected for any purpose, the Building Authority is not satisfied that connexion of a supply of water for every such purpose, which complies in every respect with all the requirements of the regulations, has been made to the building; or (Added 16 of 1966 s. 6)
- (f) any performance review as required under item 6(g) in Column B of section 17(1) in the opinion of the Building Authority fails to state or justify that the building works have been adequately inspected and monitored in the course of construction or that the geotechnical design assumptions upon which the building works have been based are valid. (Added 41 of 1982 s. 6. Amended 52 of 1990 s. 5; 39 of 2000 s. 4)

(7) Upon the expiration of 14 days from the date of receipt by the Building Authority of an application in the appropriate specified form, for a temporary occupation permit or for an occupation permit, such permit shall be deemed to have been granted unless the Building Authority has by notice in writing served on the building owner refused to issue such permit, specifying the ground for such refusal. (Amended 68 of 1993 s. 12)

(8) Where, in respect of a new building, an application under this section for a temporary occupation permit or for an occupation permit is submitted within 60 days of receipt by the Building Authority of a performance review required under section 17 in respect of building works for that building, the application shall, for the purpose of subsection (7), be deemed to have been received 60 days after receipt of the performance review. (Added 41 of 1982 s. 6)

(Replaced 37 of 1961 s. 2)

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Section:	22	Powers of Building Authority	L.N. 172 of 1998	01/04/1998
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Remarks:

1. The amendment to subsection (2)(a)(only in so far as that section relates to registered general building contractors) made by Ord. No.54 of 1996 s. 18 has come into operation on 7 November 1997 .
2. Remaining amendments to this section made by Ord. No.54 of 1996 s. 18 have commenced operation since 1 April 1998.

(1) The Building Authority or any public officer authorized in writing by him in that behalf may at any time enter and where necessary, in the presence of a police officer, break into any premises or enter upon any land-

- (a) to ascertain whether any building, structure, street or natural, formed or man-made land is dangerous or liable to become dangerous; (Amended 72 of 1980 s. 7)
 - (b) to inspect or test any groundwater drainage works, drainage works or drainage system; (Amended 44 of 1959 s. 8; 41 of 1982 s. 7)
 - (c) to ascertain whether the provisions of this Ordinance or of any notice order or regulation hereunder are being complied with;
 - (d) to carry out or cause to be carried out any work which he is authorized to carry out under this Ordinance. (Amended 44 of 1959 s. 8)
- (2) For the purposes of subsection (1)-
- (a) access to every part of any building works or street works shall be provided by the

registered general building contractor and registered specialist contractor; and
(Replaced 43 of 1993 s. 4. Amended 54 of 1996 s. 18)

- (b) the Building Authority or a public officer authorized under this section may take such steps as he may deem necessary, including the making of openings and the taking of reasonable samples. (Amended 44 of 1959 s. 8)

(3) The Building Authority may by order in writing require an authorized person to carry out such tests as may be specified in the order. (Amended 52 of 1974 s. 9)

(4) The Building Authority may specify any form for the purposes of this Ordinance.
(Added 68 of 1993 s. 13)

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Section:	23	Building works, etc. to cease on order of Building Authority	L.N. 172 of 1998	01/04/1998
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Remarks:

1. The amendments to this section made by Ord. No. 54 of 1996 s. 19 have come into operation on 7 November 1997 (only in so far as that section amends section 23 in respect of matters not related to registered specialist contractors or supervision plans).
2. The amendments to this section made by Ord. No. 54 of 1996 s. 19 have come into operation on 22 December 1997 (only in relation to the addition of new section 23(2), (3), (4) and (5) in so far as that section concerns supervision plans except provisions relating to registered specialist contractors).
3. Remaining amendments to this section made by Ord. No.54 of 1996 s.19 have commenced operation since 1 April 1998.

- (1) Where in the opinion of the Building Authority- (Amended 54 of 1996 s. 19)
 - (a) any building works or street works are being carried out in contravention of any of the provisions of this Ordinance or are connected with any building works that have been so carried out; or
 - (b) any building works that are being carried out-
 - (i) will cause, or will be likely to cause, a total or partial collapse of any adjoining or other building, street or natural, formed or man-made land, or
 - (ii) will render, or will be likely to render, any adjoining or other building, street or natural, formed or man-made land so dangerous that it will collapse, or be likely to collapse, either totally or partially, or (Amended 72 of 1980 s. 8; 54 of 1996 s. 19)
 - (iii) are in dangerous conditions within the site of the building works, (Added 54 of 1996 s. 19)

he may by order in writing served on the registered general building contractor or registered specialist contractor or other person carrying out such works, as the case may be, require that such works cease until the order is withdrawn.

(2) The Building Authority may by order in writing served on the registered general building contractor, registered specialist contractor or other person carrying out building works or street works require that the works cease if there has been a material deviation-

- (a) from the technical memorandum for the preparation of a supervision plan for the building works or street works; or
- (b) from the supervision plan for the works,

which in the opinion of the Building Authority may lead to a dangerous or potentially dangerous situation. (Added 54 of 1996 s. 19)

(3) The Building Authority may by order in writing served on the registered general building contractor, registered specialist contractor or other person carrying out building works or street works require that the works cease if he is satisfied that a condition imposed on the giving of his approval or consent has not been, or is not able to be, complied with. (Added 54 of 1996 s. 19)

(4) If the Building Authority orders that the works cease, the person carrying out the building works or street works shall cease to continue the works as quickly and as safely as possible. (Added 54 of 1996 s. 19)

(5) The Building Authority may in withdrawing an order that works cease make the withdrawal subject to reasonable conditions. (Added 54 of 1996 s. 19)

(Replaced 40 of 1965 s. 4. Amended 43 of 1993 s. 5)

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Section:	24	Order for demolition, removal, or alteration of building, building works or street works	L.N. 171 of 2004	31/12/2004
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(1) Where any building has been erected, or where any building works or street works have been or are being carried out in contravention of any of the provisions of this Ordinance the Building Authority may by order in writing require-

- (a) the demolition of the building, building works, or street works; or
- (b) (Repealed 43 of 1993 s. 6)
- (c) such alteration of the building, building works or street works as may be necessary to cause the same to comply with the provisions of this Ordinance, or otherwise to put an end to the contraventions thereof,

and in every case specify the time within which the demolition, alteration or work required by such order shall be commenced and the time within which the same shall be completed. (Amended 16 of 1966 s. 7; 43 of 1993 s. 6)

(2) An order made under subsection (1) shall be served on-

- (a) in the case of a building or building works but subject to subsection (2A), the owner of the land or premises on which the building has been erected or on which the building works have been or are being carried out;
- (b) in the case of street works, the frontagers; and
- (c) in the case of building works the subject matter of which is a signboard-
 - (i) the person for whom the signboard has been erected or is being erected; or
 - (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) cannot be found, the owner of the land or premises on which the signboard has been erected or is being erected. (Replaced 15 of 2004 s. 21)

(2A) Where the building or building works referred to in subsection (2)(a) is or are-

- (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 building has been erected or on which the building 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 (2)(a) shall not apply and in such a case, an order made under subsection (1) in respect of the building or building works shall be served on the owner of that other land or premises. (Added 15 of 2004 s. 21)

(2B) References in subsections (2)(a) and (2A) to building works do not include references to building works the subject matter of which is a signboard. (Added 15 of 2004 s. 21)

(2C) The Building Authority may, upon the service of an order under subsection (2)(a), (b) or (c)(iii) or (2A), cause the order 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 (2)(a) or (c)(iii), the land or premises;
- (b) if the order has been served on the frontagers in accordance with subsection (2)(b), the premises of the frontagers to which the street works relate; or
- (c) if the order has been served on the owner of other land or premises in accordance with subsection (2A), that other land or premises. (Added 15 of 2004 s. 21)

(3) 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 such building, building works or street works. (Amended L.N. 283 of 1986; 43 of 1993 s. 6)

(4) Subject to subsection (4A), the cost of any demolition or alteration under subsection (3) in relation to the building, building works or street works to which the order relates shall be recoverable from-

- (a) if the order had been served on the owner of any land or premises in accordance with subsection (2)(a) or (c)(iii), that owner;
- (b) if the order had been served on the frontagers in accordance with subsection (2)(b), those frontagers;
- (c) if the order had been served on a person in accordance with subsection (2)(c)(i) or (ii), that person; or
- (d) if the order had been served on the owner of other land or premises in accordance with subsection (2A), that owner. (Replaced 15 of 2004 s. 21)

(4A) Where the order has been registered with the Land Registry in accordance with subsection (2C), the cost of any demolition or alteration under subsection (3) in relation to the building, building works or street works to which the order relates shall be recoverable from-

- (a) if the order had been served on the owner of any land or premises in accordance with subsection (2)(a) or (c)(iii), 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 frontagers in accordance with subsection (2)(b), the persons who, as at the date of completion of the demolition or alteration, are the frontagers to which the street works relate; or
- (c) if the order had been served on the owner of other land or premises in accordance with subsection (2A), the person who, as at the date of completion of the demolition or alteration, is the owner of that other land or premises. (Added 15 of 2004 s. 21)

(4B) Where the cost of any demolition or alteration is recovered from frontagers under subsection (4) or (4A), the Building Authority shall apportion the cost-

- (a) in the case of private streets, according to the frontages of the premises owned by such frontagers; or
- (b) in the case of access roads, equally. (Added 15 of 2004 s. 21)

(4C) 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 (3) shall be prima facie evidence of that fact. (Added 15 of 2004 s. 21)

(5) (Repealed 43 of 1993 s. 6)

(Replaced 44 of 1959 s. 10)

Chapter:	123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section:	31	Projections on or over streets	29 of 1998	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 29 of 1998 s. 105

PART III

MISCELLANEOUS AND GENERAL

(1) No building or other structure shall be erected in, over, under or upon any portion of any street whether or not on land held under lease from the Government unless-

- (a) the building or other structure complies with the relevant criteria stipulated in Part II of the Building (Planning) Regulations (Cap 123 sub. leg. F); or
- (b) an exemption has been granted by the Building Authority pursuant to section 42. (Replaced 42 of 1992 s. 4)

- (2) Where in the opinion of the Building Authority the public interest so requires he may-
- (a) by order in writing served on the owner of the building any part of which projects, or attached to which is any projection, over any street or unleased Government land require the alteration or removal of such projection within 3 months from the service of the order or within such lesser period as the Building Authority may deem necessary in the circumstances; or
 - (b) carry out or cause to be carried out such alteration or removal and, except in the case of a projection over a street held on lease from the Government, recover the cost thereof from such owner. (Amended 29 of 1998 s. 105)

(2A) Where the owner referred to in subsection (2)(a) cannot be found or fails to comply with the requirements of an order served under subsection (2)(a), the Building Authority may carry out or cause to be carried out the works specified in the order or such other works as he considers to be necessary and the cost thereof shall be recoverable from the owner. (Added 42 of 1992 s. 4)

- (3) Where-
- (a) no exemption is granted by the Building Authority under section 42 for the re-erection over or upon any portion of a street held on lease from the Government of a building which had been so built under the provisions of this or any earlier enactment; or
 - (b) the Building Authority exercises his power under subsection (2) to require the alteration or removal of, or alters or removes any projection built under the provisions of this or any earlier enactment over any street or unleased Government land,

compensation shall be paid by the Government to the owner of such building. (Amended 23 of 1969 s. 7; 29 of 1998 s. 105)

(4) Any dispute as to whether any compensation is payable or as to the amount of such compensation shall, in default of agreement, be determined by arbitration in accordance with the provisions of the Arbitration Ordinance (Cap 341).

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Section:	38	Regulations	L.N. 130 of 2007	01/07/2007
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(1) The Secretary for Development may by regulation provide for- (Amended L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007)

- (a) registration and control of-
 - (i) authorized persons;
 - (ii) registered structural engineers;
 - (iia) registered geotechnical engineers; (Added 15 of 2004 s. 28)
 - (iii) registered general building contractors; (Amended 54 of 1996 s. 20)
 - (iv)-(v) (Repealed 43 of 1987 s. 44)
 - (vi) registered specialist contractors; (Replaced 52 of 1974 s. 10. Amended 54 of 1996 s. 20)
- (b) the manner of making application for and granting of approval of plans of building works or street works, and the giving of consent to commence or carry on such works, including cases where it is desired-
 - (i) to add to or alter building works or street works the commencement of which has already been consented to, or
 - (ii) to commence certain parts of building works or street works before other parts;

- (ba) the planning, design and construction of site formation works; (Added 72 of 1980 s. 14)
- (bb) the planning, design and carrying out of ground investigation in the scheduled areas; (Added 41 of 1982 s. 9. Amended 52 of 1990 s. 7)
- (c) planning and design of buildings including-
 - (i) streets;
 - (ii) projections;
 - (iii) heights, site coverage, plot ratio and open spaces including service lanes; (Amended 23 of 1969 s. 9)
 - (iv) lighting and ventilation;
 - (v) sanitation;
 - (vi) staircases and fire-escapes;
 - (vii) domestic buildings;
 - (viii) buildings for special uses including industrial buildings, places of public entertainment and schools;
 - (ix) any sea-wall, breakwater, jetty, mole, quay, wharf or pier; (Amended 6 of 1995 s. 4)
 - (x) exceptional structures;
 - (xi) timber yards and hoardings; (Amended 23 of 1969 s. 9; 43 of 1993 s. 8)
 - (xii) fire fighting equipment; (Added 37 of 1961 s. 6. Amended 43 of 1993 s. 8; 39 of 2000 s. 5)
 - (xiii) matters relating to the installation of lifts and escalators; (Added 43 of 1993 s. 8. Amended 39 of 2000 s. 5; 15 of 2004 s. 28)
 - (xiv) matters relating to the provision of access facilities for telecommunications and broadcasting services; and (Added 39 of 2000 s. 5. Amended 15 of 2004 s. 28)
 - (xv) matters relating to the provision of emergency vehicular access; (Added 15 of 2004 s. 28)
- (d) the construction of buildings including-
 - (i) materials;
 - (ii) loads and stresses;
 - (iii) foundations, floors and sites;
 - (iv) walls and piers;
 - (v) roofs, flues and chimneys;
 - (vi) structural steel work, reinforced concrete, and timber;
 - (vii) fire-resisting construction;
 - (viii) retaining walls;
 - (ix) plumbing and drainage;
 - (x) wells;
 - (xi) matters relating to the installation of lifts and escalators; (Amended 43 of 1993 s. 8; 15 of 2004 s. 28)
 - (xii) refuse chutes, refuse storage chambers, and floor space and facilities for material recovery and separation of refuse; and (Replaced 39 of 2000 s. 5. Amended 15 of 2004 s. 28)
 - (xiii) matters relating to the provision of emergency vehicular access; (Added 15 of 2004 s. 28)
- (e) the supply of water to buildings for all purposes, including the connexion thereof to buildings and the arrangement, size, construction and type of piping therefor and the power of the Building Authority to require that the supply of water be obtained from a particular source or to prohibit or restrict the supply of water from any particular sources; (Added 16 of 1966 s. 9)
- (f) (Repealed 43 of 1993 s. 8)
- (g) the construction, inspection, testing and safe working of ventilating systems; (Added 27 of 1964 s. 5)
- (h) the testing of drainage works and matters ancillary thereto;

- (i) the demolition of buildings and the safety precautions to be taken in respect thereof; (Added 37 of 1961 s. 6)
- (ia) the design, construction, licensing, inspection, testing and maintenance of oil storage installations and matters connected therewith, including the imposition of restrictions and conditions relating to the use of such installations for the storage of petroleum products; prohibiting the use of any oil storage installation, requiring any petroleum products to be removed from any oil storage installation, the seizure, removal and detention of any petroleum products not removed from any oil storage installation as required, the power of entry, inspection and examination; and for the establishment of a Standing Advisory Committee to advise the Building Authority on such matters relating to oil storage installations as may be specified in the regulations; (Added 16 of 1978 s. 3. Amended 5 of 1983 s. 3)
- (ib) as regards the conservation of energy-
 - (i) requirements relating to the planning, design and construction of any building or buildings of a class or description specified in the regulations, including the furnishing of information regarding these matters;
 - (ii) as regards buildings complying with or required to comply with regulations under subparagraph (i), exemptions from specified requirements in any other regulation made under this subsection; (Added 77 of 1994 s. 11)
- (j) the granting of permits for and control of buildings required for a limited time or constructed of short-lived materials;
- (k) plans, notices and certificates to be delivered to the Building Authority;
- (l)-(m) (Repealed 68 of 1993 s. 18)
- (n) the better carrying into effect of the provisions of this Ordinance. (Replaced 44 of 1959 s. 18)

(1A)The Chief Executive in Council may by regulation provide for the imposition of fees in respect of any matter with regard to which provision is made in this Ordinance or in regulations made under this Ordinance. (Added 68 of 1993 s. 18. Amended 62 of 2000 s. 3)

(1B)The Chief Executive in Council may by regulation provide for- (Amended 62 of 2000 s. 3)

- (a) the procedure as regards the exercise of the right of appeal conferred by section 44;
- (b) the practice and procedure of an Appeal Tribunal constituted under section 48; and
- (c) matters ancillary or incidental to those specified under paragraph (a) or (b). (Added 77 of 1994 s. 11)

(1C)Regulations made under subsection (1)(ib) may provide that any requirement in such regulations applies to a building, any part of a building or parts of a building as are specified. (Added 77 of 1994 s. 11)

(2) Regulations under this section may provide for the carrying out by the Building Authority of all building works required to be carried out therein, and for the recovery of the costs thereof from the person required to carry out such building works.

- (3) (a) Regulations under this section may provide that where the Building Authority issues permits thereunder he may-
 - (i) endorse conditions on such permits;
 - (ii) cancel such permits for breaches thereof; and
 - (iii) require the permittee to deposit a sum not exceeding \$500 as security for the due compliance with such conditions.
- (b) Upon the breach of any such condition, any deposit required by this subsection shall upon application to a magistrate be declared by him to be forfeited to the Government. (Amended 62 of 2000 s. 3)

(3A)The amount of fees provided for in regulations made under subsection (1A) in respect of the making of application for or granting of approval of plans of building works or street works may be fixed at levels which provide for the recovery of expenditure incurred or likely to be incurred generally by the Government in relation to such application or approval and need not be limited by reference to the administrative or other costs incurred or likely to be incurred in the processing of any individual submission of plans. (Added 68 of 1993 s. 18)

(4) Regulations under this section may provide that a contravention of any specific provision thereof shall be an offence and may prescribe penalties therefor of-

- (a) a fine not exceeding level 6;
- (b) in the case of a continuing offence, a daily fine not exceeding \$5000 for each day during which the offence continues; and
- (c) imprisonment for a period not exceeding 2 years. (Replaced 39 of 2000 s. 5)

(5) Regulations under this section shall be published once in the Gazette at least 3 weeks before coming into operation:

Provided that where the Secretary for Development or the Chief Executive in Council, as the case may be, deems it expedient such publication may be dispensed with. (Amended L.N. 330 of 1999; 62 of 2000 s. 3; L.N. 106 of 2002; L.N. 130 of 2007)

(Amended 44 of 1959 s. 18; 68 of 1993 s. 18)

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Section:	39A	Technical memorandum	L.N. 130 of 2007	01/07/2007
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(1) The Secretary for Development may issue a technical memorandum dealing with- (Amended L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007)

- (a) the circumstances in which a supervision plan is not required for building works or street works;
- (b) the classes of supervision that the Building Authority identifies as appropriate to various types of building works and street works having regard to the complexity of the building works or street works, the manpower required and level of supervision required for each of the classes of supervision;
- (c) detailed supervision requirements for various types of building works and street works including the management structure required to ensure site safety, the manpower required for each element of the management structure, the qualifications and experience of the personnel involved and the specific tasks to be associated in each element of the management structure;
- (d) the method statement of various types of building works and street works, the types of precautionary and protective measures required to be undertaken for the safety of the site, the workers and the public, and such other details relating to site safety as the Building Authority may consider necessary;
- (e) the qualifications and experience required for technically competent persons to be appointed for supervisory work under supervision plans;
- (f) the circumstances in which an authorized person, registered structural engineer, registered geotechnical engineer, registered general building contractor or registered specialist contractor is permitted to notify in retrospect for minor deviations from a supervision plan; (Amended 15 of 2004 s. 29)
- (g) the method and timing of notification of, and the amendment procedures for, a proposed or actual deviation from a supervision plan, including deviations caused by an emergency;
- (h) the form and content of a supervision plan;
- (i) the general responsibilities of the site supervision personnel for the various types of building works and street works;
- (j) the procedure, timing and sequence for the submission of supervision plans.

(2) The Secretary must publish a technical memorandum issued under this Ordinance in the Gazette and cause it to be laid on the table of the Legislative Council at the next sitting after publication.

(3) Where the Secretary has caused a technical memorandum to be laid on the table of the Legislative Council, the Legislative Council may, by resolution passed at a sitting of the Legislative Council held before the expiry of a period of 28 days after the sitting at which it was laid, provide that the technical memorandum be amended in any manner consistent with the power to issue the technical memorandum.

(4) If the period for passing a resolution would, but for this subsection, expire-

- (a) after the end of a session of the Legislative Council or after a dissolution of the Legislative Council; but
- (b) on or before the day of the second sitting of the Legislative Council in the next following session of the Legislative Council,

the period is deemed to extend to and expire on the day after that second sitting.

(5) Before the expiry of the period referred to in subsection (3) or that period as extended by virtue of subsection (4), the Legislative Council may by resolution in relation to a technical memorandum specified therein-

- (a) in the case of the period referred to in subsection (3), extend that period to the first sitting of the Legislative Council held not earlier than the twenty-first day after the day of its expiry;
- (b) in the case where the period referred to in subsection (3) has been extended by virtue of subsection (4), extend that period as so extended to the first sitting of the Legislative Council held not earlier than the twenty-first day after the day of the second sitting in that next following session. (Replaced 8 of 2002 s. 7)

(6) A resolution passed by the Legislative Council under this section must be published in the Gazette not later than 14 days after the resolution is passed or within such further period as the Secretary may allow in any particular case.

(7) A technical memorandum issued under subsection (1) is not subsidiary legislation.

(8) In this section, "sitting" (立法會會議), when used to calculate time, means the day on which the sitting commences and only includes a sitting at which subsidiary legislation is included on the order paper. (Amended 62 of 2000 s. 3)

(9) Unless the Secretary appoints a later date either in the memorandum or by notice in the Gazette, a technical memorandum commences to have effect-

- (a) if the Legislative Council does not pass a resolution amending the technical memorandum, upon the expiry of the period, or the period as extended, as the case may be, for passing an amending resolution; and
- (b) if the Legislative Council passes a resolution amending the technical memorandum, at the beginning of the day of the publication in the Gazette of the resolution.

(10) If the Secretary issues a technical memorandum under this Ordinance, he must make available a copy of the technical memorandum for inspection by the public free of charge at such offices of the Government as the Secretary directs during business hours.

(Added 54 of 1996 s. 21)

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Section:	40	Offences	L.N. 171 of 2004	31/12/2005
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PART IV

OFFENCES

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

- (a) to a fine of \$400000 and to imprisonment for 2 years; and
 - (b) to a fine of \$20000 for each day during which it is proved to the satisfaction of the court that the offence has continued. (Added 15 of 2004 s. 31)
- (1) Any person who contravenes section 21(1) shall be guilty of an offence and shall be liable on conviction- (Amended 15 of 2004 s. 31)
 - (a) to a fine of \$100000 and to imprisonment for 2 years; and
 - (b) to a fine of \$5000 for each day during which it is proved to the satisfaction of the court that the offence has continued. (Replaced 24 of 1979 s. 3)
- (1A) Any person who contravenes section 22(2)(a), 24B(14) or 27(5)(a) shall be guilty of an offence and shall be liable on conviction to a fine of \$5000 and to imprisonment for 6 months. (Added 24 of 1979 s. 3. Amended 91 of 1990 s. 6)
- (1B) Any person who-
 - (a) contravenes section 30(1) or 31(1); or
 - (b) without reasonable excuse, fails to comply with an order served on him under section 19(2), 20(2), 22(3), 23, 25(2), 26(1), 26A(1) or (3), 27A(1) or (2B), 27C(1) or (4), 28(2)(a) or (3) or (5), 29(2)(a), 29A(2), 30(3) or 31(2)(a), (Amended 77 of 1992 s. 4; 55 of 1996 s. 9; 15 of 2004 s. 31)
 shall be guilty of an offence and shall be liable on conviction-
 - (i) to a fine of \$50000 and to imprisonment for 1 year; and
 - (ii) in the case of an offence consisting of a failure to comply with an order served on him under section 23, 25(2), 26(1), 26A(1) or (3), 27A(1) or (2B), 27C(1) or (4) or 28(3) or (5) to a further fine of \$5000 for each day during which it is proved to the satisfaction of the court that the failure to comply with the order has continued. (Added 24 of 1979 s. 3. Amended 72 of 1980 s. 15; 77 of 1992 s. 4; 55 of 1996 s. 9; 15 of 2004 s. 31)
- (1BA) Any person who, without reasonable excuse, fails to comply with an order served on him under section 24(1) shall be guilty of an offence and shall be liable on conviction-
 - (a) to a fine of \$200000 and to imprisonment for 1 year; and
 - (b) to a fine of \$20000 for each day during which it is proved to the satisfaction of the court that the offence has continued. (Added 15 of 2004 s. 31)
- (1C) Any person who-
 - (a) without reasonable excuse, fails to comply with an order served on him under section 32(2); or
 - (b) contravenes section 24B(8) or 32(3), (Amended 91 of 1990 s. 6)
 shall be guilty of an offence and shall be liable on conviction to a fine of \$2000 and to imprisonment for 6 months. (Added 24 of 1979 s. 3)
- (1D) Any owner who-
 - (a) fails to serve upon all former occupiers who have notified him of their addresses, the copies required to be served under section 27(10)(a); or
 - (b) fails to serve upon the Building Authority the certificate required to be served under section 27(10)(b),
 shall be guilty of an offence and shall be liable on conviction to a fine of \$10000 and to imprisonment for 6 months. (Added 45 of 1985 s. 2)
- (1E) Any person who contravenes section 24B(6) shall be guilty of an offence and shall be liable on conviction to a fine of \$50000 and to imprisonment for 1 year and to a further fine of \$5000 for each day during which the offence continues. (Added 91 of 1990 s. 6)
- (2) Any person who-
 - (a) fails to give any notice required to be given under section 25(1); or
 - (b) contravenes any condition of a permit granted by the Building Authority under section 42,
 shall be guilty of an offence and shall, without prejudice to any other penalty, be liable on conviction to a fine at level 6 and to imprisonment for 2 years. (Replaced 39 of 2000 s. 6)
- (2AAA) Any person who obstructs the Building Authority, any officer authorized by him or any other public officer, in the exercise of his power under this Ordinance, shall be guilty of an offence and shall, without prejudice to any other penalty, be liable on conviction to a fine at level

3 and to imprisonment for 6 months. (Added 39 of 2000 s. 6)

(2A) Any person for whom any building works or street works are being carried out and any authorized person, registered structural engineer, registered geotechnical engineer, registered general building contractor or registered specialist contractor directly concerned with any such works who- (Amended 43 of 1993 s. 10; 54 of 1996 s. 22; 15 of 2004 s. 31)

- (a) permits or authorizes to be incorporated in or used in the carrying out of any such works any materials which-
 - (i) are defective or do not comply with the provisions of this Ordinance;
 - (ii) have not been mixed, prepared, applied, used, erected, constructed, placed or fixed in the manner required for such materials under this Ordinance;
- (b) diverges or deviates in any material way from any work shown in a plan approved by the Building Authority under this Ordinance; or
- (c) knowingly misrepresents a material fact in any plan, certificate, form or notice given to the Building Authority under this Ordinance, (Replaced 24 of 1979 s. 3)

shall be guilty of an offence and shall be liable on conviction to a fine of \$1000000 and to imprisonment for 3 years. (Amended 24 of 1979 s. 3; 15 of 2004 s. 31)

(2AA) Any authorized person, registered structural engineer or registered geotechnical engineer who contravenes section 4(3)(b), or any registered general building contractor or registered specialist contractor who contravenes section 9(5)(b) or (6)(b), shall be guilty of an offence and shall be liable on conviction to a fine of \$250000: (Amended 54 of 1996 s. 22; 39 of 2000 s. 6; 15 of 2004 s. 31)

Provided that it shall be a defence in any prosecution for a contravention of any section referred to in this subsection for the person charged to prove to the satisfaction of the court that he did not know, nor could reasonably have discovered, the contravention referred to in the charge. (Added 24 of 1979 s. 3)

(2AB) Any person (whether or not an authorized person, a registered structural engineer, a registered geotechnical engineer, a registered general building contractor or a registered specialist contractor) directly concerned with any building works or street works set out in items 1, 2, 3, 4, 5 and 6 of Column A in the table to section 17(1) who contravenes any condition imposed, or fails to comply with any requirement of an order in writing, under that section in respect of such building works or street works, or the plans thereof, shall be guilty of an offence and shall be liable on conviction to a fine of \$150000 and to imprisonment for 1 year. (Added 72 of 1980 s. 15. Amended 54 of 1996 s. 22; 15 of 2004 s. 31)

(2AC) Any person (whether or not an authorized person, a registered structural engineer, a registered geotechnical engineer, a registered general building contractor or a registered specialist contractor) directly concerned with any site formation works, piling works, excavation works or foundation works who contravenes any condition imposed under item 7 in the table to section 17(1) in respect of such works, or the plans thereof, shall be guilty of an offence and shall be liable on conviction to a fine of \$750000 and to imprisonment for 3 years. (Added 72 of 1980 s. 15. Amended 54 of 1996 s. 22; 15 of 2004 s. 31)

(2B) Any person (whether or not an authorized person, a registered structural engineer, a registered geotechnical engineer, a registered general building contractor or a registered specialist contractor) directly concerned with any site formation works, piling works, foundation works or other form of building works who- (Amended 54 of 1996 s. 22; 15 of 2004 s. 31)

- (a) carries out or has carried out such works, or authorizes or permits or has authorized or permitted such works to be carried out, in such manner that it causes injury to any person or damage to any property; or
- (b) carries out or has carried out such works, or authorizes or permits or has authorized or permitted such works to be carried out, in such manner as is likely to cause a risk of injury to any person or damage to any property,

shall be guilty of an offence and shall be liable on conviction to a fine of \$1000000 and to imprisonment for 3 years. (Replaced 24 of 1979 s. 3. Amended 15 of 2004 s. 31)

(2C) Any person who, without reasonable excuse, fails to comply with an order served on him under section 24A, shall be guilty of an offence and shall be liable on conviction-

- (a) to a fine of \$1000000 and to imprisonment for 3 years; and

- (b) to a fine of \$200000 for each day during which it is proved to the satisfaction of the court that the failure to comply with the order has continued. (Added 71 of 1972 s. 5. Amended 24 of 1979 s. 3; 15 of 2004 s. 31)

(2D) Any person who knowingly misrepresents a material fact in any report submitted to the Building Authority under section 27C(2)(c) shall be guilty of an offence and shall be liable on conviction to a fine of \$250000 and to imprisonment for 3 years. (Added 55 of 1996 s. 9)

(3) Any person who unlawfully and maliciously removes, pulls down, demolishes or damages, or in any way whatsoever interferes with, any shoring erected for a building pursuant to section 18(1) or any groundwater drainage works carried out pursuant to section 28A shall be guilty of an offence and shall be liable to a fine of \$50000 and to imprisonment for 1 year. (Added 27 of 1964 s. 6. Amended 24 of 1979 s. 3; 41 of 1982 s. 10)

(3A) Any person who without reasonable excuse fails to comply with a requirement imposed under section 28A to maintain groundwater drainage works shall be guilty of an offence and shall be liable to a fine of \$50000 and imprisonment for 1 year and to a further fine of \$5000 for each day during which it is proved to the satisfaction of the court that the failure to comply with the requirement has continued. (Added 41 of 1982 s. 10)

(4) Any person who, after a copy of a warrant issued under section 18(6)(c) has been posted in accordance with section 18(6)(d), obstructs the entry to the building specified in such warrant of any police officer or other person authorized by such warrant to enter the same shall be guilty of an offence and shall be liable to a fine of \$50000 and to imprisonment for 1 year. (Added 40 of 1965 s. 7. Amended 24 of 1979 s. 3)

(4A) Any person who, after a copy of warrant issued under section 28C has been posted under subsection (2) of that section, obstructs the entry upon the land specified in the warrant by any police officer or other person authorized by the warrant to enter upon the land or obstructs the carrying out or maintenance of any groundwater drainage works by any person authorized by the warrant to carry out or maintain the works shall be guilty of an offence and shall be liable to a fine of \$50000 and to imprisonment for 1 year. (Added 41 of 1982 s. 10)

(4B) Any person who without reasonable excuse contravenes section 39B(1) shall be guilty of an offence and shall be liable on conviction to a fine at level 3 and to imprisonment for 6 months. (Added 15 of 2004 s. 31)

(5) Any person, being a person directly concerned in or with any building works or street works, who permits the commission of any offence specified in this section shall be deemed to be guilty of such offence and shall be liable to the penalty prescribed therefor. (Replaced 44 of 1959 s. 20. Amended 43 of 1993 s. 10)

(6) Where an offence under this Ordinance committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect or default on the part of, any director, manager, or other officer concerned in the management of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, is guilty of the offence. (Replaced 6 of 1995 s. 5)

(6A) Where an offence under this Ordinance committed by a partner in a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect or default on the part of, any other partner of the partnership, that other partner is also guilty of the offence. (Added 6 of 1995 s. 5)

(7) Where anything is required to be done by the owner of a building, and by virtue of section 2 there is more than one owner of such building, it shall be a defence to any charge of failing to do that thing-

- (a) that such thing was done by another owner of the building; or
- (b) that any notice or order in respect of such thing required under this Ordinance to be served on the owner was served on another owner of the building and not on the person charged.

(7A) Where anything is required to be done by an owner of land or by a person referred to in section 27A(1), it shall be a defence to any charge of failing to do that thing that any notice or order in respect of such thing required under this Ordinance to be served on the owner or on such person was served on another owner of the land or on another such person and not on the person charged. (Added 72 of 1980 s. 15)

(8) Any prosecution under the provisions of this Ordinance may be commenced within 12 months of the commission of the offence or within 12 months of the same being discovered by or coming to the notice of the Building Authority. (Added 44 of 1959 s. 20. Amended 68 of 1993 s. 19)

Chapter:	123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section:	41	Exemptions	29 of 1998; 62 of 2000	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 29 of 1998 s. 26; 62 of 2000 s. 3

PART V

EXEMPTIONS

(1) The following shall be exempt from the provisions of this Ordinance-

- (a) buildings belonging to the Government;
- (aa) subject to section 18(2) and (3) of the Housing Ordinance (Cap 283), buildings upon any land vested in the Housing Authority or over which the Housing Authority has control and management; (Added 23 of 1973 s. 36. Amended 33 of 1978 s. 13)
- (b) buildings upon any land vested in any person on behalf of Her Majesty's naval, military or air force services;
- (ba) any land vested in the Housing Authority or in any person on behalf of Her Majesty's naval, military or air force services, and any unleased land within the meaning of the Land (Miscellaneous Provisions) Ordinance (Cap 28) other than such unleased land in respect of which a person is, under the terms of a Government lease, under an obligation to maintain; (Added 72 of 1980 s. 16)
- (c) any street or access road vested in and maintained by the Government: (Added 44 of 1959 s. 21)

Provided that the provisions of this Ordinance relating to projections over or upon any portion of any street whether or not on land held under lease from the Government and to hoardings shall apply to all buildings. (Amended 23 of 1969 s. 10; 29 of 1998 s. 26)

(1A) Nothing in subsection (1) shall exempt an owner of any building that is not a building referred to in paragraph (a), (aa) or (b) of that subsection from the operation of section 27C merely by reason of the fact that any water pipe, drain or sewer of the building is laid in, on or under-

- (a) any land vested in the Housing Authority or in any person on behalf of Her Majesty's naval, military or air force services;
- (b) any unleased land within the meaning of the Land (Miscellaneous Provisions) Ordinance (Cap 28); or (Amended 29 of 1998 s. 26)
- (c) any street or access road vested in and maintained by the Government. (Added 55 of 1996 s. 10. Amended 29 of 1998 s. 26)

(2) Save as otherwise provided, no alteration shall be required to any existing building, private street or access road erected or constructed in accordance with the laws of Hong Kong. (Replaced 44 of 1959 s. 21. Amended 43 of 1993 s. 11; 62 of 2000 s. 3)

(3) Building works other than drainage works, ground investigation in the scheduled areas or site formation works not involving the structure of any building may be carried out in any building without application to or approval from the Building Authority: (Amended 44 of 1959 s. 21; 41 of 1982 s. 11; 52 of 1990 s. 8)

Provided that nothing in this subsection shall permit any building works to be carried out in

contravention of any regulation.

(3A) Drainage works may be carried out in or for any existing building without application to or approval from the Building Authority if those works do not involve-

- (a) the structure of any building;
- (b) any drain or sewer into which there is discharged, or it is intended to discharge, any trade effluent, chemical refuse, waste steam, petroleum spirit, carbide of calcium, acid, grease or oil;
- (c) altering any manhole at which any drain or sewer from the building is connected with a public sewer;
- (d) altering any septic tank or cesspool; (Amended 42 of 1992 s. 9)
- (e) making a direct or indirect connection of an additional drain or sewer to a septic tank or cesspool; or (Amended 42 of 1992 s. 9)
- (f) underground drainage works in area number 3 of the scheduled areas: (Added 42 of 1992 s. 9)

Provided that nothing in this subsection shall permit any drainage works to be carried out in contravention of any regulation. (Added 57 of 1987 s. 8)

(4) The provisions of this Ordinance shall not apply to any temporary building to be kept or used as a place of public entertainment. (Added 7 of 1970 s. 7)

Chapter:	123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section:	53B	Offences in respect of Appeal Tribunal		30/06/1997
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Any person who-

- (a) refuses or fails without reasonable excuse to comply with any lawful order, requirement or direction made or given by the Appeal Tribunal or the Chairman; or
 - (b) disturbs or otherwise interferes with the proceedings of the Appeal Tribunal,
- commits an offence and is liable to a fine of \$10000 and to imprisonment for 6 months.

(Part VI replaced 77 of 1994 s. 12)

Chapter:	123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section:	53H	Inclusion of certain registered professional engineers in geotechnical engineers' register	L.N. 171 of 2004	31/12/2004
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Notwithstanding section 3(7), the Building Authority shall, on payment by a registered professional engineer referred to in section 3(5CA)(a)(i) of the prescribed fees for inclusion and retention of his name in the geotechnical engineers' register, publish in the Gazette and include in the geotechnical engineers' register the name of the registered professional engineer, and section 3(9B) to (16) shall apply accordingly as if his name were included in the geotechnical engineers' register under section 3.

(Added 15 of 2004 s. 33)

Chapter:	123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Schedule:	5	SCHEDULED AREAS	L.N. 133 of 2004	09/07/2004
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[section 2(1)]

Area Number	Description
1.	Mid-levels area being the area delineated and shown edged black on a plan numbered GCB1, dated 28 April 1982, signed by the Secretary for Lands and Works and deposited in the Land Registry.
2.	North-western part of the New Territories being the area delineated and shown edged black on a plan numbered GS-SP/714-1, dated 8 June 1990, signed by the Secretary for Planning, Environment and Lands and deposited in the Land Registry.
3.	<p>(1) The railway protection areas along the Mass Transit Railway lines being- (Amended L.N. 177 of 2003)</p> <p>(a) the areas delineated and shown edged black on the plans numbered MTR/G/1 to 3, MTR/RP/1 to 22, MTR/RP/25 to 27, MTR/RP/30 to 46, MTR/RP/50 to 55, MTR/RP/60 to 66 and MTR/RP/101 to 170, dated 29 June 1998, signed by the Secretary for Planning, Environment and Lands and deposited in the Land Registry; and</p> <p>(b) the areas delineated and shown edged black on the plans numbered MTR/G/4, MTR/RP/23 Rev. A, MTR/RP/24 Rev. A, MTR/RP/28 Rev. A, MTR/RP/29 Rev. A, MTR/RP/56 Rev. A, MTR/RP/57 Rev. A, MTR/RP/58 Rev. A, MTR/RP/59 Rev. A and MTR/RP/202 to 223, dated 29 May 2002, signed by the Secretary for Planning and Lands and deposited in the Land Registry. (Replaced L.N. 116 of 2002)</p> <p>(2) The railway protection areas along the railway lines of the Kowloon-Canton Railway Corporation being- (Amended L.N. 133 of 2004)</p> <p>(a) the areas delineated and shown edged black on the plans numbered KCR/WR/RP/100 Rev. 1, KCR/WR/RP/101 Rev. 1, KCR/WR/RP/102 Rev. 1, KCR/WR/RP/103 Rev. 1, KCR/WR/RP/104 Rev. 1, KCR/WR/RP/105 Rev. 1, KCR/WR/RP/106 Rev. 1, KCR/WR/RP/107 Rev. 1, KCR/WR/RP/108 Rev. 1, KCR/WR/RP/109 Rev. 1, KCR/WR/RP/110 Rev. 1, KCR/WR/RP/111 Rev. 1, KCR/WR/RP/112 Rev. 1, KCR/WR/RP/113 Rev. 1, KCR/WR/RP/114 Rev. 1, KCR/WR/RP/115 Rev. 1, KCR/WR/RP/116 Rev. 1, KCR/WR/RP/117 Rev. 1, KCR/WR/RP/118 Rev. 1, KCR/WR/RP/119 Rev. 1, KCR/WR/RP/120 Rev. 1, KCR/WR/RP/121 Rev. 2, KCR/WR/RP/122 Rev. 1, KCR/WR/RP/123 Rev. 1, KCR/WR/RP/124 Rev. 1, KCR/WR/RP/125 Rev. 1, KCR/WR/RP/126 Rev. 1, KCR/WR/RP/127 Rev. 1, KCR/WR/RP/128 Rev. 1, KCR/WR/RP/129 Rev. 1, KCR/WR/RP/130 Rev. 1, KCR/WR/RP/131 Rev. 1, KCR/WR/RP/132 Rev. 1, KCR/WR/RP/133 Rev. 1, KCR/WR/RP/134 Rev. 1, KCR/WR/RP/135 Rev. 1, KCR/WR/RP/136 Rev. 1, KCR/WR/RP/137 Rev. 1,</p>

KCR/WR/RP/138 Rev. 1, KCR/WR/RP/139 Rev. 1, KCR/WR/RP/140 Rev. 1, KCR/WR/RP/141 Rev. 1, KCR/WR/RP/142 Rev. 1, KCR/WR/RP/143 Rev. 1, KCR/WR/RP/144 Rev. 1 and KCR/WR/RP/145 Rev. 1, dated 6 June 2003, signed by the Secretary for Housing, Planning and Lands and deposited in the Land Registry; and (Added L.N. 177 of 2003. Amended L.N. 133 of 2004)

(b) the areas delineated and shown edged black on the plans numbered KCR/ERE/TSTE/RP/100, KCR/ERE/TSTE/RP/101 and KCR/ERE/TSTE/RP/111, dated 1 June 2004, signed by the Secretary for Housing, Planning and Lands and deposited in the Land Registry. (Added L.N. 133 of 2004)

4. Ma On Shan area being the area delineated and shown edged black on a plan numbered GS-SP/717-3, dated 25 March 1993, signed by the Secretary for Planning, Environment and Lands and deposited in the Land Registry. (Added 68 of 1993 s. 21)
5. The sewage tunnel protection areas being the areas delineated and shown edged black on the seven plans numbered KCE/S/G/765A to 771A, dated 11 November 1994, signed by the Secretary for Planning, Environment and Lands and deposited in the Land Registry. (Added 6 of 1995 s. 6)

(Replaced 52 of 1990 s. 9. Amended 8 of 1993 s. 2)

Chapter:	123A	BUILDING (ADMINISTRATION) REGULATIONS	Gazette Number	Version Date
Regulation:	20	Notification to Building Authority before commencement of building works or street works	L.N. 171 of 2004	31/12/2005

(1) Not less than 7 days before the commencement of any building works or street works, the authorized person appointed in respect of the building works or street works shall, in the specified form, furnish to the Building Authority- (L.N. 347 of 1993)

- (a) a notification, signed by the authorized person, of the appointment of the registered general building contractor or the registered specialist contractor in respect thereof and of the date upon which the building works or street works are to be commenced; and
- (b) an acceptance of such appointment, a confirmation of the date upon which the building works or street works are to be commenced and an undertaking of responsibility for strict compliance with the provisions of the Ordinance and regulations, signed by the registered general building contractor or the registered specialist contractor. (L.N. 514 of 1997)

(2) Not less than 7 days before the commencement of any building works or street works, the authorized person, the registered structural engineer or the registered geotechnical engineer appointed in respect of the building works or street works shall, where a supervision plan is required- (15 of 2004 s. 44)

- (a) notify the building Authority in writing of the appointment of any technically competent person under regulation 37; and
- (b) provide the Building Authority with the personal particulars, qualifications and experience of the technically competent person appointed under regulation 37. (L.N. 514 of 1997)

(3) Not less than 7 days before the commencement of any building works or street works, the registered general building contractor or the registered specialist contractor appointed in respect of the building works or street works shall, where a supervision plan is required-

- (a) notify the Building Authority in writing of the appointment of any technically competent person under regulation 41; and
- (b) provide the Building Authority with the personal particulars, qualifications and experience of the technically competent person appointed under regulation 41. (L.N. 514 of 1997)

(G.N.A. 97 of 1961; L.N. 188 of 1974; L.N. 438 of 1990)

Chapter:	123A	BUILDING (ADMINISTRATION) REGULATIONS	Gazette Number	Version Date
Regulation:	22	Building Authority to be notified on change of authorized person, registered structural engineer, registered geotechnical engineer, registered contractor, etc.	L.N. 171 of 2004	31/12/2005

(1) Where, in accordance with the provisions of the Ordinance, another authorized person, registered structural engineer, registered geotechnical engineer, registered general building contractor or registered specialist contractor is appointed in respect of building works or street works, the person for whom the building works or street works, as the case may be, are being carried out shall, in writing, notify the Building Authority of the name of such authorized person, registered structural engineer, registered geotechnical engineer, registered general building contractor or registered specialist contractor within 7 days of his appointment. (L.N. 514 of 1997)

(2) Where an authorized person, registered structural engineer, registered geotechnical engineer, registered general building contractor or registered specialist contractor appointed in respect of building works or street works has, during the carrying out of any such works, become unable or unwilling to act, in the case of a registered structural engineer, any structural work, in the case of a registered geotechnical engineer, any geotechnical work, in the case of an authorized person, all works, and in the case of a registered general building contractor or registered specialist contractor, the building works or street works for which he is appointed, shall cease until another authorized person, registered structural engineer, registered geotechnical engineer, registered general building contractor or registered specialist contractor, has been appointed and the Building Authority has been notified in accordance with paragraph (1). (L.N. 514 of 1997; L.N. 608 of 1997)

(3) An authorized person, registered structural engineer or registered geotechnical engineer is required to notify the Building Authority in writing of a change in the appointment of any technically competent person appointed under regulation 37 within 14 days of the change and to provide the Building Authority with the personal particulars, qualifications and experience of the new technically competent person appointed under that regulation. (L.N. 514 of 1997)

(4) A registered general building contractor or registered specialist contractor is required to notify the Building Authority in writing of a change in the appointment of any technically competent person appointed under regulation 41 within 14 days of the change and to provide the Building Authority with the personal particulars, qualifications and experience of the new technically competent person appointed under that regulation. (L.N. 514 of 1997)

(5) An authorized person, registered structural engineer or registered geotechnical engineer is required to cease that part of the works, which in accordance with the supervision plan, is under the supervision of the technically competent person appointed under regulation 37, on the cessation of such appointment until a new technically competent person is appointed. (L.N. 514 of 1997)

(6) A registered general building contractor or registered specialist contractor is required to

cease that part of the works, which in accordance with the supervision plan, is under the supervision of the technically competent person appointed under regulation 41, on the cessation of such appointment until a new technically competent person is appointed. (L.N. 514 of 1997; L.N. 608 of 1997)

(7) Where any operator of powered mechanical plant or equipment used or proposed to be used in demolition works is appointed, a registered specialist contractor is required to notify the Building Authority in writing of a change in the appointment of the operator within 7 days of the change and to provide the Building Authority with the personal particulars, qualifications and experience of the new operator of the plant or equipment. (L.N. 514 of 1997; L.N. 608 of 1997)

(L.N. 438 of 1990; 15 of 2004 s. 45)

Chapter:	123A	BUILDING (ADMINISTRATION) REGULATIONS	Gazette Number	Version Date
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Regulation:	24	Duties of registered contractor who ceases to be appointed	L.N. 175 of 1998	01/04/1998
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Where a registered general building contractor or registered specialist contractor appointed in respect of building works or street works ceases, for any reason, to be so appointed, he shall, within 7 days thereof, deliver to the authorized person appointed in respect of the building works or street works for submission to the Building Authority in accordance with the provisions of regulation 38 notice, in the specified form, that he has so ceased to be appointed, and shall, in such form, certify that the building works or street works, as the case may be, carried out by him have been carried out in accordance with the provisions of the Ordinance and regulations.

(L.N. 188 of 1974; L.N. 438 of 1990; L.N. 347 of 1993; L.N. 514 of 1997)

Chapter:	123A	BUILDING (ADMINISTRATION) REGULATIONS	Gazette Number	Version Date
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Regulation:	25	Certificate to be given by registered contractor and authorized person on completion of building works	L.N. 171 of 2004	31/12/2005
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(1) Within 7 days of the completion of any building works in respect of which he has been appointed, the registered general building contractor and registered specialist contractor shall, in the form specified for building works resulting in a new building or not so resulting, as the case may be, certify that the new building has been erected or the building works carried out in accordance with the provisions of the Ordinance and regulations and shall, within the said 7 days, deliver such certificate to the authorized person, registered structural engineer or registered geotechnical engineer, as the case may be, appointed in respect of the building works. (15 of 2004 s. 47)

(2) Within 14 days of the completion of any building works, other than demolition works, in respect of which he has been appointed, the authorized person shall, in the form specified for building works resulting in a new building or not so resulting, as the case may be, delivered to him, in accordance with the provisions of paragraph (1), by the registered general building contractor and the registered specialist contractor appointed in respect thereof, certify that the new building has been erected or the building works carried out in accordance with the plans approved in respect thereof by the Building Authority, and that the new building or such building works, as the case may be, are in his opinion structurally safe and shall, within the said 14 days, send such

certificate to the Building Authority.

(3) Where the form specified for building works, other than demolition works, resulting in a new building or not so resulting, as the case may be, is delivered to the registered structural engineer or registered geotechnical engineer appointed in respect of the building works, in accordance with the provisions of paragraph (1), by the registered general building contractor and the registered specialist contractor appointed in respect thereof, the registered structural engineer or registered geotechnical engineer shall within 7 days of the receipt thereof certify that the new building has been erected or the building works carried out in accordance with the plans approved in respect thereof by the Building Authority, and that the new building or such building works, as the case may be, are in his opinion structurally or geotechnically (as the case may be) safe, and shall deliver such certificate to the authorized person who shall within 7 days of the receipt thereof send the same to the Building Authority. (L.N. 188 of 1974; 15 of 2004 s. 47)

(4) Within 14 days of the completion of any demolition works in respect of which he has been appointed, the authorized person, registered structural engineer and registered geotechnical engineer shall, in the form specified for demolition works, certify to the Building Authority that- (15 of 2004 s. 47)

- (a) the demolition works have been completed in accordance with the approved plans;
- (b) any structure or building remaining on the site is, in his opinion, structurally safe; and
- (c) any land or street affected by the demolition works has an adequate margin of safety. (L.N. 514 of 1997)

(L.N. 188 of 1974; L.N. 347 of 1993; L.N. 514 of 1997)

Chapter:	123A	BUILDING (ADMINISTRATION) REGULATIONS	Gazette Number	Version Date
Regulation:	28	Certificate to be given by authorized person, registered structural engineer, registered geotechnical engineer and registered contractor engaged in respect of emergency work	L.N. 171 of 2004	31/12/2005

Every authorized person, registered structural engineer and registered geotechnical engineer engaged to supervise, and registered general building contractor and registered specialist contractor engaged to carry out, any work of emergency shall, within 48 hours thereof, certify, on the form specified for the purposes of section 19 of the Ordinance, that he has been so engaged.

(L.N. 188 of 1974; L.N. 347 of 1993; L.N. 514 of 1997; 15 of 2004 s. 48)

Chapter:	123A	BUILDING (ADMINISTRATION) REGULATIONS	Gazette Number	Version Date
Regulation:	35	Duties imposed by this Part not to prejudice any other duties imposed by Ordinance or other regulations	L.N. 171 of 2004	31/12/2005

PART V

DUTIES OF AUTHORIZED PERSON, REGISTERED STRUCTURAL ENGINEER OR REGISTERED GEOTECHNICAL ENGINEER AND REGISTERED CONTRACTORS APPOINTED IN RESPECT OF

BUILDING WORKS OR STREET WORKS

(L.N. 188 of 1974; 15 of 2004 s. 50)

The duties imposed, by the regulations in this Part, upon an authorized person, registered structural engineer, registered geotechnical engineer, registered general building contractor or registered specialist contractor appointed in respect of building works or street works shall be without prejudice to any duties imposed upon such authorized person, registered structural engineer, registered geotechnical engineer, registered general building contractor or registered specialist contractor by any other provision of the Ordinance or regulations.

(L.N. 188 of 1974; L.N. 514 of 1997; 15 of 2004 s. 51)

Chapter:	123A	BUILDING (ADMINISTRATION) REGULATIONS	Gazette Number	Version Date
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Regulation:	36	Duty of authorized person to supply copy of plans of building works or street works to registered contractor	L.N. 171 of 2004	31/12/2005
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Authorized person, registered structural engineer or registered geotechnical engineer

(15 of 2004 s. 52)

(1) The authorized person appointed in respect of any building works or street works shall supply to the registered general building contractor and the registered specialist contractor appointed in respect thereof a copy, stamped, signed and dated, in accordance with regulation 30, by the Building Authority, of every plan approved by the Building Authority and a copy of any supervision plan in respect of the building works or street works, as the case may be. (L.N. 188 of 1974)

(2) Where the structural details or geotechnical details have been prepared by a registered structural engineer or a registered geotechnical engineer, as the case may be, and approved by the Building Authority it shall be the responsibility of the authorized person to ensure that the registered general building contractor and the registered specialist contractor are supplied with a copy thereof. (L.N. 188 of 1974; 15 of 2004 s. 53)

(L.N. 514 of 1997)

Chapter:	123A	BUILDING (ADMINISTRATION) REGULATIONS	Gazette Number	Version Date
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Regulation:	40	Duty of registered contractor to keep approved plans and supervision plans on site	L.N. 171 of 2004	31/12/2005
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Registered contractors

The registered general building contractor and the registered specialist contractor appointed in respect of building works shall keep on the site of the building works or street works, and shall produce to the Building Authority at such times as he requires, all plans and supervision plans of the building works or street works supplied to him, in accordance with the provisions of regulation 36, by the authorized person, registered structural engineer or registered geotechnical engineer appointed in respect thereof.

Chapter:	123A	BUILDING (ADMINISTRATION) REGULATIONS	Gazette Number	Version Date
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Regulation:	41	Duty of registered contractor to supervise	L.N. 175 of 1998	01/04/1998
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Remarks:

1. The amendment to this regulation made by L.N. 514 of 1997 has come into operation on 22 December 1997 only as it relates to the addition of new regulation 41(2), (3), (4), (5) and (6) except provisions in such regulation relating to registered specialist contractors - see L.N. 620 of 1997.
2. Remaining amendments to this regulation have commenced operation since 1 April 1998.

(1) The registered general building contractor and the registered specialist contractor appointed in respect of building works or street works shall, during the carrying out thereof, give continuous supervision thereto to ensure that the building works or street works, as the case may be, are carried out in accordance with the provisions of the Ordinance and regulations and with the plans approved in respect thereof and with any order made or condition imposed, pursuant to any provision of the Ordinance or regulations in that behalf, by the Building Authority and the supervision plan prepared in compliance with the technical memorandum issued under section 39A of the Ordinance (if required). (L.N. 514 of 1997)

(2) Where a supervision plan is required, the registered general building contractor and the registered specialist contractor are each required to appoint such number of technically competent persons as appropriate to give such supervision as may be required under the supervision plan on each site for which the registered general building contractor and the registered specialist contractor are appointed under section 9 of the Ordinance. (L.N. 514 of 1997)

(3) The Building Authority has the power to reject or revoke the appointment of any person as a technically competent person appointed under paragraph (2) if the Building Authority is not satisfied that the qualifications or experience of the person appointed are sufficient for him to carry out the duties required of him. (L.N. 514 of 1997)

(4) A registered general building contractor and a registered specialist contractor are required to keep records of activities and information relevant to the supervision of the building works or street works of any site for which they are appointed. (L.N. 514 of 1997)

(5) The Building Authority may inspect the records and information required to be kept under paragraph (4) at any reasonable time. (L.N. 514 of 1997)

(6) The registered general building contractor and the registered specialist contractor are required to retain the records and information required to be kept under paragraph (4) for at least 12 months after the submission of the certificate on completion of the final stage of the building works or street works of the site. (L.N. 514 of 1997)

Chapter:	123F	BUILDING (PLANNING) REGULATIONS	Gazette Number	Version Date
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Regulation:	2	Interpretation	L.N. 110 of 2005	31/12/2005
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(1) In these regulations, unless the context otherwise requires, words and expression have the meaning attributed to them by the Buildings Ordinance (Cap 123), and-

"access facilities" (接達設施) means facilities for access of telecommunications and broadcasting

- services, including a room, duct or riser used for the installation of cables, wires and other ancillary equipment for telecommunications and broadcasting purposes; (39 of 2000 s. 7)
- "balcony" (露台) means any structure projecting from any wall of any building to carry a floor or roof load either cantilevered or supported by brackets;
- "broadcasting" (廣播) means transmission of sound or television programmes by satellite or terrestrial telecommunications intended for general reception; (39 of 2000 s. 7)
- "canopy" (簷篷) means any structure which projects more than 500 mm from any wall of any building and at a height of not more than 7.5 m above the level of the ground to provide protection from rain or sun, not carrying any floor load, either cantilevered or supported by brackets; (G.N.A. 83 of 1959; L.N. 294 of 1976; L.N. 79 of 1992)
- "cinema" (電影院) means any building or part of a building which is designed for, and contains facilities (including a projection room) and projection or other apparatus or equipment for use in connection with or otherwise for the purposes of cinematographic displays; (L.N. 194 of 1996)
- "commercial building" (商業建築物) has the same meaning assigned to it in section 2 of the Building (Energy Efficiency) Regulation (Cap 123 sub. leg. M); (39 of 2000 s. 7)
- "detached building" (獨立建築物) means any building which is not connected to any other building and has a clear and unobstructed open space-
- (a) extending the entire depth of the building of not less than 2.3 m measured at right angles to the external surface of the building; (L.N. 294 of 1976)
 - (b) in the rear of the building of a depth of 2.3 m measured at right angles to the external surface of the building and extending for the full width of the site; (L.N. 294 of 1976)
- "disability" (殘疾), in relation to a person, means impairment in vision, hearing or locomotion because of injury, disease or congenital deformity; (L.N. 239 of 1997)
- "external wall" (外牆) means an outer wall of a building not being a party wall, even though adjoining a wall of another building;
- "factory" (工廠) means any building or place in which any machinery, other than machinery worked entirely by hand, is used in aid of any industrial undertaking carried on in such building or place;
- "floor" (樓面) means any structure forming the base of any storey and every joist, board, timber, brick, concrete or other substance connected with and forming part of such structure;
- "hotel building" (旅館建築物) means a building which is constructed or intended to be used as a hotel; (39 of 2000 s. 7)
- "industrial building" (工業建築物) has the same meaning assigned to it in regulation 2 of the Building (Refuse Storage and Material Recovery Chambers and Refuse Chutes) Regulations (Cap 123 sub. leg. H); (39 of 2000 s. 7)
- "latrine" (廁所) means a privy, commode or earth closet but does not include a water closet or a water flushed urinal;
- "open air" (露天地方) means a space which-
- (a) is vertically uncovered and unobstructed;
 - (b) is not less, in any horizontal dimension, than 1.5 m; and
 - (c) where such space is enclosed on 4 sides, has a horizontal area of not less than 1 m² for every 6 m of the mean height of the walls enclosing the space; (G.N.A. 83 of 1959; L.N. 294 of 1976)
- "Ordinance" (本條例) means the Buildings Ordinance (Cap 123);
- "permitted plot ratio" (准許地積比率) means the maximum plot ratio permitted under paragraph (1) or (2), as the case may be, of regulation 21; (G.N.A. 97 of 1962)
- "prescribed" (訂明) means prescribed by or under the Ordinance; (G.N.A. 83 of 1959)
- "residential building" (住宅建築物) has the same meaning assigned to it in regulation 3 of the

Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations (Cap 123 sub. leg. I); (39 of 2000 s. 7)

"road" (道路) means a street not including any footpath;

"room" (房間) means any portion of a building which has been subdivided by the erection of partition walls from floor to ceiling;

"semi-detached building" (半獨立建築物) means any one of a pair of buildings connected to each other by a party wall and has a clear and unobstructed open space-

(a) extending the entire depth of the building of not less than 2.3 m measured at right angles to the external surface of the building; (L.N. 294 of 1976)

(b) in the rear of the building of a depth of 2.3 m measured at right angles to the external surface of the building and extending for the full width of the site; (L.N. 294 of 1976)

"site coverage" (上蓋面積) means the area of the site that is covered by the building that is erected thereon and, when used in relation to a part of a composite building, means the area of the site on which the building is erected that is covered by that part of the building; (G.N.A. 97 of 1962)

"storey" (樓層) means the space between the upper surface of every floor and the upper surface of the floor next above it where such a floor exists and in the case of a top storey the space between the upper surface of that floor and the mean height of the ceiling or roof;

"street" (街道) includes any footpath and private and public street;

"telecommunications" (電訊) has the meaning assigned to it in section 2 of the Telecommunications Ordinance (Cap 106); (39 of 2000 s. 7)

"usable floor space" (實用樓面空間) means any floor space other than staircases, staircase halls, lift landings, the space used in providing water-closet fitments, urinals and lavatory basins and the space occupied by machinery for any lift, air-conditioning system or similar service; (G.N.A. 97 of 1962)

"verandah" (外廊) means any structure projecting from any wall of any building and supported by piers or columns.

(L.N. 194 of 1996; L.N. 239 of 1997; L.N. 110 of 2005)

(2) (Repealed L.N. 110 of 2005)

(73 of 1983 s. 3)

Chapter:	123F	BUILDING (PLANNING) REGULATIONS	Gazette Number	Version Date
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Regulation:	7	Eaves, cornices, mouldings, etc.		30/06/1997
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PART II

PROJECTIONS

(1) No eaves, cornices, mouldings or other architectural projections shall project over a street more than 500 mm or at a height of less than 2.5 m above the level of the ground.

(2) No pipes (including water-pipes and drain-pipes) or gutters, or the appurtenances of such pipes or gutters shall project over a street more than 300 mm or at a height of less than 2.5 m above the level of the ground.

(L.N. 79 of 1992)

Chapter:	583	CONSTRUCTION WORKERS REGISTRATION ORDINANCE	Gazette Number	Version Date
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Section:	2	Interpretation	L.N. 130 of 2007	01/07/2007
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- (1) In this Ordinance, unless the context otherwise requires—
- "Appeal Board" (上訴委員會) means a Construction Workers Appeal Board appointed under section 54(1);
- "Appeal Board panel" (上訴委員團) means the Appeal Board panel appointed under section 53(1);
- "Authority" (管理局) means the Construction Workers Registration Authority established by section 7(1);
- "authorized officer" (獲授權人員) means a person who is appointed under section 16(1);
- "Building Authority" (建築事務監督) has the meaning assigned to it in section 2(1) of the Buildings Ordinance (Cap 123);
- "building services work" (建築物裝備工程) means—
- (a) any heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, refuse collection, water supply, fire protection, security, communications, lift or escalator installation or works; or
 - (b) any other extra low voltage installation or works;
- "building works" (建築工程) has the meaning assigned to it in section 2(1) of the Buildings Ordinance (Cap 123);
- "business day" (工作日) means a day that is not—
- (a) a general holiday; or
 - (b) a black rainstorm warning day, or a gale warning day, within the meaning of section 71(2) of the Interpretation and General Clauses Ordinance (Cap 1);
- "CITA" (建訓局) means the Construction Industry Training Authority established by section 4 of the Industrial Training (Construction Industry) Ordinance (Cap 317);
- "committee" (委員會) means a committee established under section 8(2)(a);
- "construction site" (建造工地) means a place where construction work is, or is to be, carried out but, except in relation to sections 17 and 18, excludes such a place where—
- (a) in the case of construction work falling within paragraph (a) or (b) of the definition of "construction work" in this section—
 - (i) in respect of which the Buildings Ordinance (Cap 123) applies; and
 - (ii) which may not, by virtue of section 41(3) or (3A) of that Ordinance, be carried out without application to or approval from the Building Authority, a certificate, referred to in paragraph (2) or (3) of regulation 25, or in paragraph (2) of regulation 26, of the Building (Administration) Regulations (Cap 123 sub. leg. A), in respect of the construction work has been sent to the Building Authority in accordance with that paragraph, or a certificate, referred to in paragraph (4) of regulation 25 of those Regulations, in respect of the construction work has been made in accordance with that paragraph;
 - (b) in the case of any other construction work falling within paragraph (a) or (b) of that definition, a certificate of substantial completion of contract has been issued in accordance with the terms of the contract under which the construction work is carried out;
- "construction work" (建造工作)—
- (a) means—
 - (i) the construction, erection, installation or reconstruction of any specified structure;

- (ii) the addition, renewal, alteration, repair, dismantling or demolition of any specified structure that involves the structure of the specified structure or any other specified structure;
- (iii) any building operation involved in preparing for any operation referred to in subparagraph (i) or (ii), including laying of foundations, excavation of earth and rock prior to laying of foundations, site clearance, site investigation, site restoration, earthmoving, tunneling, boring, scaffolding and provision of access; or
- (iv) any building operation, or building services work, forming an integral part of, or rendering complete, any operation referred to in subparagraph (i) or (ii), but excludes building works in respect of which a certificate of exemption is issued under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap 121);
- (b) means any building services work that involves the structure of any specified structure; or
- (c) means any maintenance work, carried out under a term contract for maintenance, of any specified structure owned by, or otherwise belonging to, a public body or a specified body;

"designated trade" (指定工種) means a trade or an occupation set out in column 1 of Part 1, 2 or 3 of Schedule 1;

"domestic premises" (住用處所) means premises used or intended to be used solely or principally for residential purposes and constituting a separate household unit;

"extra low voltage" (特低壓) means voltage normally not exceeding—

- (a) 50V root mean square alternating current; or
- (b) 120V direct current,

between conductors or between a conductor and earth;

"further penalty" (附加罰款) means the further penalty payable under section 27(3);

"levy" (徵款) means the levy imposed under section 23;

"low voltage" (低壓) means voltage normally exceeding extra low voltage but normally not exceeding—

- (a) between conductors, 1000V root mean square alternating current or 1500V direct current; or
- (b) between a conductor and earth, 600V root mean square alternating current or 900V direct current;

"officer" (高級人員), in relation to a body corporate, includes a director, manager or secretary;

"penalty" (罰款) means the penalty payable under section 27(2);

"practicable" (切實可行) means reasonably practicable;

"principal contractor" (總承建商), in relation to a construction site, means the person who undertakes on the site construction work under a contract, or term contract for maintenance, that is entered into by the person directly with—

- (a) an owner, occupier or developer of the property within the site; or
- (b) an agent or architect, surveyor or engineer of such an owner, occupier or developer;

"Qualifications Committee" (資格評審委員會) means the Construction Workers Qualifications Committee established by section 12(1);

"Register" (名冊) means the Register of Construction Workers established under section 37(1)(a);

"registered construction worker" (註冊建造業工人) means—

- (a) a registered skilled worker for a designated trade;
- (b) a registered skilled worker (provisional) for a designated trade;
- (c) a registered semi-skilled worker for a designated trade;
- (d) a registered semi-skilled worker (provisional) for a designated trade; or
- (e) a registered general worker;

"registered general worker" (註冊普通工人) means a person whose name is entered in the

Register as a registered general worker;

"registered semi-skilled worker" (註冊半熟練技工), in relation to a designated trade, means a person whose name is entered in the Register as a registered semi-skilled worker for the trade;

"registered semi-skilled worker (provisional)" (註冊半熟練技工(臨時)), in relation to a designated trade, means a person whose name is entered in the Register as a registered semi-skilled worker (provisional) for the trade;

"registered skilled worker" (註冊熟練技工), in relation to a designated trade, means a person whose name is entered in the Register as a registered skilled worker for the trade;

"registered skilled worker (provisional)" (註冊熟練技工(臨時)), in relation to a designated trade, means a person whose name is entered in the Register as a registered skilled worker (provisional) for the trade;

"Registrar" (註冊主任) means the Registrar of Construction Workers appointed under section 36(1);

"registration" (註冊) means registration under this Ordinance as a registered construction worker, and "registered" (註冊) shall be construed accordingly;

"registration card" (註冊證) means a registration card issued under section 46(1);

"Review Committee" (覆核委員會) means the Construction Workers Review Committee established by section 14(1);

"Secretary" (局長) means the Secretary for Development; (Amended L.N. 130 of 2007)

"specified" (指明), in relation to a form, means specified under section 62;

"specified body" (指明機構) means a body set out in Schedule 2;

"specified structure" (指明構築物) means any structure or works set out in Schedule 3;

"street works" (街道工程) has the meaning assigned to it in section 2(1) of the Buildings Ordinance (Cap 123);

"sub-contractor" (分包商), in relation to a principal contractor, means any person who enters into a contract with another person (whether or not the principal contractor) to undertake all or any part of the construction work that the principal contractor has undertaken;

"surcharge" (附加費) means the surcharge imposed under section 26(8);

"term contract for maintenance" (固定期保養合約) means a contract for a fixed term—

- (a) which is made between a person and a public body or specified body; and
- (b) under which the person shall, during the term, undertake maintenance work in respect of a specified structure owned by, or otherwise belonging to, the body, as required by the body in writing from time to time;

"VTC" (職訓局) means the Vocational Training Council established by section 4 of the Vocational Training Council Ordinance (Cap 1130).

(2) For the avoidance of doubt, it is declared that the provisions of this Ordinance applicable to or in relation to a designated trade, or any part of a designated trade, are additional to the provisions of any other Ordinances applicable to or in relation to the trade, or any part of the trade.

Chapter:	583	CONSTRUCTION WORKERS REGISTRATION ORDINANCE	Gazette Number	Version Date
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Section:	19	Interpretation	L.N. 147 of 2004	18/09/2004
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PART 5

LEVY

- (1) In this Part, unless the context otherwise requires—
- "authorized person" (獲授權人) has the meaning assigned to it in section 2(1) of the Industrial Training (Construction Industry) Ordinance (Cap 317);
- "construction contract" (建造合約) has the meaning assigned to it in section 2(1) of the Industrial Training (Construction Industry) Ordinance (Cap 317);
- "construction operations" (建造工程), subject to section 22, has the meaning assigned to it in Schedule 1 to the Industrial Training (Construction Industry) Ordinance (Cap 317);
- "contract of employment" (僱傭合約) has the meaning assigned to it in section 2(1) of the Employment Ordinance (Cap 57);
- "contractor" (承建商) has the meaning assigned to it in section 2(1) of the Industrial Training (Construction Industry) Ordinance (Cap 317);
- "employer" (僱主) has the meaning assigned to it in section 2(1) of the Industrial Training (Construction Industry) Ordinance (Cap 317);
- "levy inspector" (徵款督察) means a person who is appointed under section 33;
- "term contract" (固定期合約) has the meaning assigned to it in section 2(1) of the Industrial Training (Construction Industry) Ordinance (Cap 317);
- "total value" (總價值), in relation to construction operations, has the meaning assigned to it in section 21;
- "value" (價值), in relation to construction operations, has the meaning assigned to it in section 20;
- "works order" (施工通知) has the meaning assigned to it in section 2(1) of the Industrial Training (Construction Industry) Ordinance (Cap 317).

(2) For the purposes of this Part, any construction operations that are building works, or street works, not carried out by or on behalf of the Government are deemed to begin on the date of the Building Authority's consent in writing for the commencement of the works under section 14(1)(b) of the Buildings Ordinance (Cap 123).

(3) For the purposes of this Part—

- (a) where a person carries out any construction operations for any other person under a contract of employment, the construction operations shall be regarded as carried out by—
 - (i) subject to subparagraph (ii), that other person; or
 - (ii) where the first-mentioned person is a contractor by virtue of paragraph (a)(i) of the definition of "contractor" in section 2(1) of the Industrial Training (Construction Industry) Ordinance (Cap 317), the first-mentioned person;
- (b) where a person carries out any construction operations for himself without arrangement (except under a contract of employment) for the carrying out of such operations by any other person, the first-mentioned person shall, apart from being the person who carries out the construction operations, also be regarded as the person for whom such operations are carried out,

and the definitions of "contractor" and "employer" and the other provisions of this Part shall be construed accordingly.

(4) For the purposes of this Part, a person shall be regarded as undertaking or carrying out construction operations if—

- (a) he manages, or arranges for, the carrying out of the construction operations by any other person for the employer concerned, whether by way of sub-contracting or otherwise; or
- (b) he provides his own labour or that of any other person for the carrying out of the construction operations.

Chapter:	583	CONSTRUCTION WORKERS REGISTRATION ORDINANCE	Gazette Number	Version Date
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Section:	58	Principal contractors and controllers to retrieve and record data of registered construction workers on construction site	L.N. 93 of 2007	01/09/2007
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PART 8

MISCELLANEOUS

(1) Subject to subsections (5) and (6), a principal contractor for a construction site shall provide on the site such device that enables the data stored in a registration card in electronic form to be retrieved unless the construction work that the principal contractor undertakes on the site—

- (a) falls within paragraph (c) of the definition of "construction work" in section 2; or
- (b) has not begun.

(2) A principal contractor for a construction site may apply to the Authority to be exempted from subsection (1) in relation to the site.

(3) An application under subsection (2) shall be—

- (a) in the specified form; and
- (b) made within 7 days after any construction work begins on the construction site, or within such further time as the Authority may in any case allow.

(4) As soon as practicable after receiving an application under subsection (2) by a principal contractor for a construction site, the Authority shall—

- (a) consider the application with regard to the physical condition and location of the site and the value of construction work carried out, or to be carried out, on the site; and
- (b) by notice in writing served on the principal contractor—
 - (i) grant the exemption subject to such conditions, if any, as the Authority thinks fit; or
 - (ii) refuse to grant the exemption.

(5) Subject to subsection (6), if the Authority refuses, under paragraph (b) of subsection (4), to grant the exemption to a principal contractor for a construction site, the principal contractor is only required to comply with subsection (1) in relation to the site for the period after the date of the notice referred to in that paragraph.

(6) If an Appeal Board, in an appeal under section 52(3), decides that a principal contractor for a construction site shall not be exempted from subsection (1), the principal contractor is only required to comply with that subsection in relation to the site for the period after the date of notice of the decision of the Appeal Board.

(7) A controller of a construction site shall—

- (a) establish and maintain a daily record that—
 - (i) is in the specified form; and
 - (ii) contains information of the registered construction workers who—
 - (A) are employed by the controller and, in the case of a controller within the meaning of subsection (9)(a)(i), by a sub-contractor of the controller; and
 - (B) personally carry out on the site construction work; and
- (b) furnish the Registrar in such manner as directed by the Registrar with a copy of the record—
 - (i) for the period of 7 days after any construction work begins on the site; and
 - (ii) for each successive periods of 7 days,

within 2 business days after the last day of the period concerned, or within such further time as the Registrar may in any case allow.

(8) A person who, without reasonable excuse, contravenes subsection (1) or (7)(a) or (b)(i) or (ii) commits an offence and is liable on conviction to a fine at level 3.

(9) In subsection (7)—

(a) "controller" (主管), in relation to a construction site, means—

(i) a principal contractor for the site; or

(ii) if there is no principal contractor for the site, any person who has control over, or is in charge of, the site; and

(b) any construction work that is building works, or street works, not carried out by or on behalf of the Government is deemed to begin on the date of the Building Authority's consent in writing for the commencement of the works under section 14(1)(b) of the Buildings Ordinance (Cap 123).

BUILDINGS (AMENDMENT) BILL 2007

Implications of the Proposal

Financial and Civil Service Implications

Additional resources have been earmarked for the Buildings Department (“BD”) to implement the minor works control system to be introduced under the Buildings (Amendment) Bill 2007. The major areas of work include processing applications for registration as registered minor works contractors (“RMWCs”), handling documents and records of minor works submissions, conducting audit checks on completed minor works, public education and support to owners, as well as dealing with possible non-compliant cases which may end up in judicial proceedings.

2. Revenue will be generated from the proposed registration fees. They will be charged on the basis of recovering the full cost of administering the system.

Economic Implications

3. The proposed minor works control system should reduce the cost of compliance with building control requirements. It would improve efficiency and flexibility in carrying out minor works. As a result of the streamlined procedures, there will be savings on the professional fees and time connected with building plan processing. The introduction of a new category of RMWCs should also lower building owners’ cost of complying with the Building Authority’s statutory removal/repair orders since the removal of certain UBWs will become minor works and can be carried out by RMWCs at a relatively lower cost instead of APs or other types of registered contractors.

4. The Validation Scheme for household minor works under the proposal will generate demand for building owners to engage registered building professionals and/or registered contractors to conduct inspections and improvement works to their existing household minor works. This will generate employment opportunities in the building industry and have a positive impact on the economy.

Environmental Implications

5. There may be some transient problems during the process of removal of UBWs, such as noise and demolition waste. However, contractors are required to follow the existing guidelines to adopt proper removal procedures. These short-term environmental problems will be contained to comply with established standards and criteria.

Sustainability Implications

6. In line with the sustainability principle of providing a living and working environment and pursuing policies which promote and protect the safety of the people in Hong Kong, the proposal would facilitate building owners to carry out minor works through the introduction of a streamlined building control system, and help ensure the quality of building works and enhance public safety.