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Legislative Council

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Paper for the House Committee meeting

Report of the Subcommittee on Building (Minor Works) Regulation

Purpose

This paper reports on the deliberations of the Subcommittee on Building (Minor Works) Regulation (the Subcommittee).

Background

2. Under the existing Buildings Ordinance (the Ordinance) (Cap. 123), all building works, despite their scale and complexity, are regulated under one single building control system. Prior approval of building plans prepared by authorized persons and consent to commence building works must be obtained from the Building Authority (BA) before commencement of such works. This control system does not differentiate building works relating to the construction of a new building from minor building works carried out in existing buildings (e.g. erection of supporting frames for air conditioners) which are simple in nature. As a result, many minor building works are carried out without complying with the law and are therefore unauthorized building works (UBWs).

3. To devise a set of simplified statutory requirements for carrying out the minor works, the Administration introduced the Buildings (Amendment) Bill 2007 (the 2007 Bill) into the Legislative Council (LegCo) on 5 December 2007. The 2007 Bill aimed at introducing the minor works control system (MWCS) to provide for a simplified control mechanism with associated penalties for offences relating to minor works, as well as a validation scheme for three specific types of UBWs which had been completed before the commencement of the MWCS. The requirement to seek the BA's prior approval for building plans and consent to commence minor works would be dispensed with. The MWCS, the modus operandi which were to be set out in the regulations to be made by the Secretary for Development (SDEV), would improve efficiency and flexibility, enhance building safety and increase the user-friendliness of the building control regime, thus

facilitating compliance. Following scrutiny by a Bills Committee, the Buildings (Amendment) Ordinance 2008 (BAO 2008) was passed by LegCo on 18 June 2008.

4. Certain provisions of the BAO 2008, including the enabling provision for SDEV to make regulations in respect of minor works, commenced on 15 December 2008 through the Buildings (Amendment) Ordinance 2008 (Commencement) Notice 2008 (L.N. 225) gazetted on 13 October 2008.

The Building (Minor Works) Regulation

5. To enable the introduction of the MWCS, the Building (Minor Works) Regulation (the Regulation) was gazetted on 27 March 2009 and tabled in LegCo on 1 April 2009. Subject to the expiry of the negative vetting period, the Regulation will come into operation on a day to be appointed by SDEV by notice published in the Gazette.

6. Pursuant to section 38 of the Ordinance, the implementation details of the MWCS are to be further prescribed in the Regulation, which would provide for operational matters concerning:

- (a) classification of minor works and details of minor works items;
- (b) simplified requirements for carrying out minor works;
- (c) registration of "registered minor works contractors (RMWCs)";
- (d) provisional registration of RMWCs;
- (e) duties of building professionals and registered contractors in carrying out minor works;
- (f) household minor works validation scheme; and
- (g) designated exempted works.

7. The main provisions of the Regulation are set out in the ensuing paragraphs.

8. Part 1 contains the definition of terms used in the Regulation.

9. Part 2 contains matters to be designated or prescribed for the purposes of the Ordinance, namely minor works, simplified requirements, and designated exempted works.

10. Part 3 contains matters relating to the establishment, composition and function of the Minor Works Contractors Registration Committee (Registration Committee).

11. Part 4 deals with the registration of a person as an RMWC, the renewal and restoration of the registration. It also deals with an application for the registration

of additional classes, types or items of minor works, and addition of an authorized signatory to the contractor's registration.

12. Part 5 specifies the types of building professionals and registered contractors to be appointed in respect of various classes, types or items of minor works.

13. Part 6 provides for the simplified requirements for building professionals and registered contractors for the carrying out of minor works. It sets out the documents to be submitted before the commencement and after the completion of Class I and Class II minor works, and after the completion of Class III minor works.

14. Part 7 sets out the duties of prescribed building professionals and prescribed registered contractors in respect of any minor works commenced or carried out under the simplified requirements.

15. Part 8 provides for miscellaneous matters. In particular, section 58 provides that any person who, without reasonable excuse, contravenes certain provisions relating to the submission of documents under Part 6, commits an offence and is liable on conviction to a fine at level 5 (\$50,000).

16. Part 9 prescribes the operational procedures of the household minor works validation scheme.

17. Part 10 deals with registration of a person (other than a natural person) as an RMWC (provisional).

18. Schedule 1 contains a list of minor works and sets out the classes and types of minor works they belong to. Schedule 2 specifies the items of works categorized as "designated exempted works", which are exempt from both the existing control system as well as the MWCS. Schedule 3 contains the specifications of household minor works eligible for the validation scheme.

The Subcommittee

19. At the House Committee meeting held on 17 April 2009, Members agreed to form a subcommittee to study the Regulation. Ir Dr Hon Raymond HO Chung-tai was elected Chairman of the Subcommittee. The membership list of the Subcommittee is in **Appendix I**. The Subcommittee has held six meetings with the Administration and invited views from the trade and stakeholders in the building industry and other concerned sectors. A list of organizations which have given views to the Subcommittee is in **Appendix II**.

20. As agreed at the House Committee meeting on 17 April 2009, the Chairman of the House Committee moved a motion to extend the scrutiny period of the Regulation to 20 May 2009 by resolution of the Council on 29 April 2009.

Deliberations of the Subcommittee

21. The Subcommittee supports in principle the policy intent of introducing the MWCS which will streamline the existing building control regime in respect of minor works, facilitate the general public to carry out minor works in a more convenient and economical manner, and enable more efficient use of Government resources. In the course of deliberation, members have raised concerns about the composition of the Registration Committee, determination of applications for registration, renewal and restoration, timing for the BA to refer applications to a Registration Committee, criminal record of offence relating to the carrying out of building works, appeal channel for registration, notification for carrying out minor works, standard requirements of photographs for minor works, and also the publicity work for the commencement of MWCS.

The registration system for minor works contractors

22. The Subcommittee notes that there will be a registration system for qualified RMWCs. Minor works practitioners, upon payment of relevant fees, 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 provisional registration arrangement will be put in place to allow adequate time for the existing non-natural-person minor works practitioners to prepare for registration.

23. The contractors who apply for registration as RMWCs may be body corporates, partnerships, sole proprietorships or individuals (Class III only), and they have to satisfy the BA that their personnel possess the necessary technical qualifications and work experience before they can be registered under the Ordinance. Appropriate top-up courses will be provided to apprise RMWCs of the statutory procedures and basic safety requirements relating to the carrying out of minor works. An RMWC's registration will be valid for three years. In general, RMWCs will not be required to attend top-up courses for the purpose of renewal of registration.

Composition of Minor Works Contractors Registration Committee

24. The Subcommittee notes that a Registration Committee, comprising representatives from the industry, will be appointed to assist the BA in considering certain applications for registration as an RMWC under the Regulation. The BA may refer the applications to the Registration Committee which will recommend to the BA to allow, defer or refuse the applications. Section 7(1)(a) of the

Regulation provides that a Registration Committee must include one person nominated by the BA as member.

25. The Subcommittee notes that the arrangement for the establishment of such Registration Committee is similar to that for the existing contractors registration committees established under the Ordinance. In general, professional experience in the minor works industry and knowledge of the statutory requirements will be the criteria for nomination of members to the Registration Committees. For the appointment under section 7(1)(a) of the Regulation, the Administration's current plan is to invite experienced practitioners in the minor works industry (such as personnel from the Minor Works Concern Group which comprises representatives from various organizations of minor works industry) to join the Registration Committee. With experience gained in administering the MWCS, the Administration will make adjustments and updates to the detailed criteria for nominations.

26. Some members consider that the Administration should specify the criteria for nominating a person to the Registration Committee by the BA under section 7(1)(a). In the light of members' concern, the Administration agrees to amend section 7(1)(a) to specify that the BA will only nominate a person with professional experience and knowledge of minor building works as a member of the Registration Committee.

Application for registration under the Minor Works Control System

27. For practitioners who apply for registration as RMWCs operating as firms under Part 4, their applications will be assessed based on their representatives' formal qualifications and/or relevant experience, comprehension of the statutory requirements, as well as professional experience in the management and supervision of works projects. The regulatory framework for RMWCs, operating as firms, will be the same as that adopted for the regulation of other contractors, such as the registered general building contractors (RGBCs), under the existing Ordinance.

28. For a sole proprietor, he himself will be the representative to be registered. For partnership, one of the partners should be the representative. Individual workers who are competent in carrying out Class III minor works can be registered as Class III RMWCs. Practitioners who apply for registration as Class III RMWCs operating as individuals will be required to prove their formal qualification (such as trade test certificates and apprentice certificates) and/or relevant experience (such as employment certificates, works vouchers, reference letters furnished by trade associations/unions/employers/contractors/building professionals).

Determination of application by the Building Authority

29. The Subcommittee notes that while the BA is the authority to approve or refuse an application for registration, section 12 (1) of the Regulation provides that the BA may refer, either in whole or in part, an application by a person who is not a natural person to a Registration Committee for recommendation.

30. The Subcommittee considers that the Regulation should specify under what circumstances the BA would refer an application to the Registration Committee. The Administration has explained that applications involving Class I minor works, which require a relatively higher level of skills and are more complicated, will be referred to the Registration Committee for consideration, whereas applications involving Class II or Class III minor works will be subject to a simpler vetting mechanism by the BA. However, under exceptional circumstances (e.g. the applicant was disciplined, convicted of criminal offences relating to the carrying out of building works, or was inactive and conducted no minor works projects in the past few years), the applications may also be referred to the Registration Committees for consideration. In other words, the BA will consider the nature of the minor works being applied for, as well as the qualifications, background and experience of the applicant, in deciding whether to refer an application to a Registration Committee. To address members' concern, the Administration has agreed to make amendments to specify the circumstances under section 12(1). The detailed criteria for making referrals will be reviewed from time to time and will be promulgated in a practice note to be issued by the Buildings Department (BD) in consultation with the industry.

Timing for the Building Authority to refer applications to a Registration Committee for consideration

31. Section 12(3) stipulates that the BA must, within 3 months from the meeting of a Registration Committee at which an application is considered, make a decision on the application. The Subcommittee considers that the Administration should specify the time limits for the BA to refer an application for registration to a Registration Committee for recommendation, and for a meeting of a Registration Committee to be held. The Administration has advised that similar to the current practice applicable to the RGBCs, such meetings will normally be held in approximately two to four months upon receipt of an application. The time required mainly depends on the completeness of the documents submitted by the applicant and the availability of the applicant to attend the meeting. The wording and arrangement stipulated in the Regulation follow those for the RGBCs under the existing Ordinance. According to the experience of the BD in the registration of RGBCs, there are occasionally cases where applicants request delaying the meeting of the Registration Committee. This may be due to a clash with the applicant's schedule (e.g. the applicant has other works projects in the Mainland) or the need to acquire additional academic certifications from overseas institutions. If specific time limits were stipulated in the Regulation, the Administration would not be able

to accede to the applicants' requests to delay the meeting but could only reject the application if the applicants could not schedule to attend the meeting or submit the complete documents. The applicants would have to start the application process all over again, including paying the application fees.

32. However, to address the Subcommittee's concern about possible delays in the arrangement of meetings, the Administration has agreed to specify in the Regulation that the BA will make referrals to and convene a meeting of the Registration Committee within 3 months upon receipt of the applications.

33. For cases where more than one Registration Committee meeting is held, some members have also expressed concern whether the BA's decision will be made after the first or last meeting. Members have asked the Administration to consider amending the current wording "within 3 months from the meeting of the Committee at which the application is considered" to reflect more clearly the policy intent of section 12(3).

34. The Administration has advised that the 3 months should count from the first meeting of the Registration Committee at which an application is considered. The present wording in both the English and Chinese versions of the Regulation, viz. "within 3 months from the meeting of the Committee at which the application is considered" and "該委員會舉行會議考慮該申請起計的三個月內", reflects that the counting of the three-month period will start after the Registration Committee has convened any meeting (including the first meeting) to consider the application. The existing wording has adequately reflected the Administration's policy intent. According to the BD's experience for the registration of RGBCs, for the vast majority of the cases, only one Registration Committee meeting will be held.

35. Section 12(3)(d) provides that the BA may, after the meeting of a Registration Committee, defer the determination of the application for a period not exceeding 6 months, and refer the application again to a Registration Committee for recommendation after that period on the request of the applicant.

36. The Subcommittee has asked the Administration to consider whether the BA should be provided with discretion to refer an application, in appropriate cases, to a Registration Committee before the expiry of the deferral period upon the applicant's request. The Administration has advised that the wording and arrangement of the Regulation follow those for RGBCs under the existing Ordinance. The current arrangements have been operating smoothly. The Registration Committee comprises experts and professionals from the field of minor works who are conversant with the inadequacies and professional training needs of the candidates for cases of deferral. In accordance with their experience, they will recommend a suitable period of time for the candidates to enhance their core competence before reverting to the Registration Committees. The BA will follow the professional advice of the Registration Committees in making the deferrals, and such arrangement is considered reasonable.

Criminal record of any offence relating to the carrying out of building works

37. The Subcommittee notes that under sections 11, 12, 22, 23, 25 and 65 of the Regulation, in determining an application for RMWC, the BA may take into account whether the applicant or professional personnel nominated by him have any criminal record in respect of any offence under the laws of Hong Kong relating to the carrying out of any building works. Members have asked whether factors such as the nature, seriousness and the timing of the offence will be taken into account and how such factors will be specified.

38. The Administration has advised that the BA will take into account the above factors in deciding an application for RMWCs, and details will be given in a practice note to be promulgated to the industry. At the Subcommittee's request, the Administration has undertaken to provide the draft practice note to the members for reference once available.

Renewal of registration

39. The Subcommittee notes that while the BA is the authority to approve or refuse an application for renewal of registration, section 15(1) of the Regulation provides that the BA may refer, either in whole or in part, an application to a Registration Committee for recommendation. Upon request of members, amendments will be made to section 15(1) to specify the criteria for referring to the Registration Committee applications for renewal. The Administration will also specify that the BA will make referrals to and convene a meeting of the Registration Committee within 3 months upon receipt of the applications.

Restoration of name to register

40. The Subcommittee notes that while the BA is the authority to approve or refuse an application for restoration of name to register, section 19(1) of the Regulation provides that the BA may refer, either in whole or in part, an application to a Registration Committee for recommendation. Upon request of members, amendments will be made to section 19(1) to specify the criteria for referring to the Registration Committee applications for restoration of name to register. The Administration will also specify that the BA will make referrals to and convene a meeting of the Registration Committee within 3 months upon receipt of the applications.

Application for registration of additional class, type or item of minor works

41. The Subcommittee notes that while the BA is the authority to approve or refuse an application for registration of additional class, type or item of minor works, section 23(1) of the Regulation provides that the BA may refer, either in whole or in part, an application to a Registration Committee for recommendation.

Upon request of members, amendments will be made to section 23(1) to specify the criteria for referring to the Registration Committee applications for registration of additional class, type or item of minor works. The Administration will also specify that the BA will make referrals to and convene a meeting of the Registration Committee within 3 months upon receipt of the applications.

Application for nomination of additional authorized signatory

42. The Subcommittee notes that while the BA is the authority to approve or refuse an application for nomination of additional authorized signatory, section 25(1) of the Regulation provides that the BA may refer, either in whole or in part, an application to a Registration Committee for recommendation. Upon request of members, amendments will be made to section 25(1) to specify the criteria for referring to the Registration Committee applications for nomination of additional authorized signatory. The Administration will also specify that the BA will make referrals to and convene a meeting of the Registration Committee within 3 months upon receipt of the applications.

Appeal channel for registration

43. The Subcommittee notes that under section 26 of the Regulation, an applicant aggrieved by a decision made by the BA or a Registration Committee in respect of an application for registration as RMWC may lodge an appeal to the Court of First Instance (CFI). The arrangement is in line with the practice for RGBCs under the Ordinance.

44. The Subcommittee is of the view that as small-scale minor works practitioners may not afford the cost of bringing a case to the CFI, the Administration should explore alternative channel for an applicant to lodge an appeal. The Administration has agreed that it would be worthwhile to give an unsuccessful application a chance of review before lodging an appeal to the CFI. In this connection, the Administration has proposed to specify in the Regulation that upon the request of the applicant, a separate Registration Committee (Review Committee) be set up to take a second look at unsuccessful applications. This Review Committee will not comprise any member who has considered the applications concerned to ensure fairness. An unsuccessful applicant may, within 28 days upon receipt of the BA's notification of the decision of application, make a written application to the BA for review of his case. The applicant may supplement additional information and materials that were not present in his original application. Similar to the procedures for the Registration Committee, the BA should arrange to convene a meeting of the Review Committee. If the Review Committee still recommends the rejection of the application and if the applicant is aggrieved by the decision of the review committee, he may lodge an appeal to the CFI within 28 days of receipt of the decision.

45. The Subcommittee considers that the time limit of four months for the Review Committee to meet to review unsuccessful applications under revised section 26 should be shortened to three months in order to speed up the application process. After due consideration, the Administration has agreed to shorten the time limit to three months.

Notification for carrying out minor works

46. The Subcommittee notes that all minor works will be classified by the Regulation into three classes according to their nature, scale and complexity as well as the risk to safety they pose. 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 defined with its dimensions, locations and other relevant measurements specified. The detailed specifications for 118 items of minor works are stipulated in Schedule 1 to the Regulation. Building professionals and RMWCs 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/or RMWCs are required to certify the completion of all minor works they have undertaken and submit the certificate to the BA.

47. The Subcommittee has examined the draft specified forms for notification of such minor works to the BA. Some members have queried whether the forms would provide for the building owner(s)/owners' corporations (OCs) to signify their knowledge and authorization of the minor works to be undertaken/completed so to ensure that such owners had been consulted before carrying out the minor works, in particular in common areas.

48. The Administration has advised that while the forms will require the signature of the person who arranged for the carrying out of minor works (in most cases such person will be the owner of the premises where the minor works are carried out), they will not provide for other owner(s)/OCs to signify the authorization of the minor works. Nevertheless, the Administration will promote such concepts through public education campaigns. Tailor-made guidelines on minor works containing such information will be issued to the general public and building owners to remind them of their responsibilities, including civil liabilities under the deeds of mutual covenant. The Administration will also remind practitioners of such issues through practice notes.

49. At the Subcommittee's request, the Administration has undertaken to make a remark in the specified forms reminding the person who arranged for the minor works of the need to seek the building owner's/co-owners' prior consent before carrying out minor works as well as the responsibilities of such owners. The Administration has also confirmed that SDEV will make an undertaking in this regard in her speech when moving the proposed resolution.

Other requirements

Standard requirements of photographs for minor works

50. Sections 30(b), 33(b) and 36(c) of the Regulation provide that the BA will require RMWCs to submit photographs showing the physical condition of the premises where the minor works are to be carried out.

51. Some members hold the view that it may not be feasible to provide photographs showing the physical condition of the premises where the minor works, particularly those on the external walls at a great height, are to be carried out as required under the Regulation. The Administration has advised that the BD will adopt a pragmatic approach in this requirement and will only require practitioners to take photos from positions that are physically accessible and safe. At the Subcommittee's request, the BD will issue practice notes with examples and illustrations with descriptions for different scenarios to facilitate the industry's compliance.

Publicity of the Minor Works Control Scheme

52. The Subcommittee considers that the MWCS is a new concept and it takes time for the public to understand and make good use of the system. The Administration should therefore introduce measures to enhance building owners' understanding of the division of duties among the professional streams of the building industry upon the implementation of the MWCS. In particular, the Administration should promote the MWCS to the interior design professional institutions, renovation contractors and trade merchants.

53. According to the Administration, the BD has continued its promotional efforts and made presentations to various professional bodies and owners' groups after the passage of the BAO 2008. The BD has also maintained close liaison with the industry and minor works practitioners, and such contacts will be sustained after the implementation of the MWCS to share experience and views on the new regime with the industry and to further refine the modus operandi of the system. Technical guidelines will be issued and updated in consultation with the industry on a regular basis to facilitate practitioners' compliance. The BD will mount an extensive public education campaign to promote the system to both the general public and the industry. Moreover, the BD will launch publicity programmes (such as briefing sessions and seminars) in collaboration with the Hong Kong Housing Society (HKHS). The BD will also collaborate with the HKHS to provide advisory service through resource help-desks, to be operated in conjunction with HKHS's Property Management Advisory Centres (PMACs) at various districts, to provide technical advice and assistance to general public. The frontline officers at HKHS's PMACs will also be briefed on the MWCS so as to answer the public's enquiries.

Other issues

Unauthorized minor household structures

54. The Subcommittee has raised concern about the status of unauthorized minor household structures and the availability of insurance plans to cover the legal liabilities of building owners and the RMWCs. They have also urged the Administration to follow up with the insurance sector on the insurance arrangements in respect of unauthorized minor household structures certified to have met the safety requirements under the validation scheme.

55. The Administration has advised that the legal status of such structures will remain unauthorized and will not change by joining the validation scheme. It is not a statutory requirement under the Ordinance to require building owners to acquire insurance for building works. However, it is in the interest of the building owners to purchase insurance to cover building works. The BD has been lining up the insurance and building industries to exchange views and facilitate the collaboration between the two sides on the development of insurance products for minor works. The BD will continue its liaison with the two sides and will also remind building owners of the benefits for acquisition of insurance for their building works in the publicity campaign.

Disposal of construction waste

56. The Subcommittee notes that the disposal of construction waste is outside the coverage of the Ordinance. Nevertheless, members consider that administrative measures should be taken to remind the building industry of their responsibility to ensure the proper handling and disposal of construction and demolition materials after completion of minor works.

57. The Administration has advised that it will remind RMWCs to take appropriate steps to ensure proper disposal of construction waste through the promulgation of practice notes and other administrative means. At the Subcommittee's request, the Administration will consider the feasibility to require RMWCs to indicate in the specified form(s) the location of the construction waste disposed of upon completion of the minor works, and to report back to the Subcommittee in due course.

Amendments to the Regulation

58. A set of amendments to be moved by the Administration is given in **Appendix III**.

Recommendation

59. The Subcommittee supports the moving of a resolution to give effect to the amended Regulation at the Council meeting on 20 May 2009.

Advice sought

60. Members are requested to note the deliberations and recommendation of the Subcommittee.

Council Business Division 1
Legislative Council Secretariat
13 May 2009

Subcommittee on Building (Minor Works) Regulation

Membership List

Chairman Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP

Members Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP

Hon Miriam LAU Kin-yee, GBS, JP

Hon Abraham SHEK Lai-him, SBS, JP

Hon LI Fung-ying, BBS, JP

Hon LEE Wing-tat

Hon CHEUNG Hok-ming, SBS, JP

Prof Hon Patrick LAU Sau-shing, SBS, JP

Hon Tanya CHAN

Hon IP Wai-ming, MH

Hon IP Kwok-him, GBS, JP

(Total : 11 members)

Clerk Ms YUE Tin-po

Legal Adviser Mr Stephen LAM

Date 23 April 2009

Subcommittee on Building (Minor Works) Regulation

List of organizations which have given views to the Subcommittee

1. Hong Kong Owners Club
2. Sign Association of Hong Kong
3. Hong Kong Construction Industry Employees General Union
4. The Hong Kong Institute of Surveyors
5. Hong Kong Professional Sign Maker Association Limited
6. Hong Kong Licensed Plumbers Association
7. The Federation of Hong Kong Electrical & Mechanical Industries Trade Unions
8. Hong Kong Water Works Professionals Association
9. The Hong Kong Institute of Housing
10. Hong Kong Federation of Insurers
11. The Law Society of Hong Kong
12. The Hong Kong Institution of Engineers

**INTERPRETATION AND GENERAL CLAUSES
ORDINANCE**

RESOLUTION

(Under section 34(2) of the Interpretation and General Clauses
Ordinance (Cap. 1))

BUILDING (MINOR WORKS) REGULATION

RESOLVED that the Building (Minor Works) Regulation, published in the
Gazette as Legal Notice No. 51 of 2009 and laid on the table of the
Legislative Council on 1 April 2009, be amended –

- (a) by repealing section 7(1)(a) and substituting –
 - “(a) 1 person nominated by the Building Authority
who, in the opinion of the Authority, has
knowledge and experience in minor works;”;
- (b) in section 8 –
 - (i) by repealing “Part 4” and substituting “Parts 4 and
10”;
 - (ii) in paragraph (c), by repealing “and”;
 - (iii) in paragraph (d), by repealing the full stop and
substituting “; and”;
 - (iv) by adding –

- “(e) reviewing the decisions of the Authority or recommendations of other Registration Committees under section 26.”;
- (c) by repealing section 12(1) and substituting –
- “(1) The Building Authority may refer, either in whole or in part, an application under section 10(1)(b) to a Registration Committee for recommendation if the Authority considers it appropriate to do so after taking into account –
- (a) the nature of the type or types of minor works under one or more classes to which the application relates; or
- (b) any matter that is relevant for determining whether the applicant complies with the requirements set out in subsections (5) and (6).”;
- (d) in section 12, by adding –
- “(2A) If the Building Authority considers it appropriate to refer the application to a Registration Committee, the Authority must direct the Committee to meet, within 3 months from receiving the application, to consider the application.”;
- (e) in section 12(3), by repealing “refers the application” and substituting “refers an application”;
- (f) by repealing section 12(3)(d) and substituting –
- “(d) defer the determination of the application for a period not exceeding 6 months, and –

- (i) refer the application again to a Registration Committee for recommendation after that period on the request of the applicant; and
 - (ii) direct the Committee to meet, within 3 months from receiving the request, to consider the application.”;
- (g) in section 14(3)(a), by adding “or (2B)(a) or (b)” after “or (b)”;
- (h) by repealing section 15(1) and (2) and substituting –
 - “(1) The Building Authority may refer, either in whole or in part, an application under section 14(1) to a Registration Committee for recommendation if the Authority considers it appropriate to do so after taking into account –
 - (a) the nature of the type or types of minor works under one or more classes to which the application relates; or
 - (b) any matter that is relevant for determining whether the applicant complies with the requirements set out in subsection (3).
 - (2) If the Building Authority does not refer the application to a Registration Committee, the Authority must, within 3 months from receiving the application –
 - (a) allow the application;
 - (b) allow the application in part and refuse the remaining part; or

(c) refuse the application.

(2A) If the Building Authority considers it appropriate to refer the application to a Registration Committee, the Authority must direct the Committee to meet, within 3 months from receiving the application, to consider the application.

(2B) If the Building Authority refers an application to a Registration Committee, the Authority must, within 3 months from the meeting of the Committee at which the application is considered –

- (a) allow the application;
- (b) allow the application in part and refuse the remaining part; or
- (c) refuse the application.”;

- (i) in section 15(3) and (4), by adding “or (2B)(a) or (b)” after “or (b)”;
- (j) in section 15(5), by adding “or (2B)(b) or (c)” after “or (c)”;
- (k) in section 17(1)(b), by adding “or (2B)(c)” after “15(2)(c)”;
- (l) in section 17(3), in the Chinese text, by repealing “第 15(5)(b)款” and substituting “第 15(5)(b)條”;
- (m) by repealing section 19(1) and (2) and substituting –

“(1) The Building Authority may refer, either in whole or in part, an application under section 18(1) to a Registration Committee for recommendation if the Authority considers it appropriate to do so after taking into account –

- (a) the nature of the type or types of minor works under one or more classes to which the application relates; or
- (b) any matter that is relevant for determining whether the applicant complies with the requirements set out in subsection (3).

(2) If the Building Authority does not refer the application to a Registration Committee, the Authority must, within 3 months from receiving the application –

- (a) allow the application;
- (b) allow the application in part and refuse the remaining part; or
- (c) refuse the application.

(2A) If the Building Authority considers it appropriate to refer the application to a Registration Committee, the Authority must direct the Committee to meet, within 3 months from receiving the application, to consider the application.

(2B) If the Building Authority refers an application to a Registration Committee, the Authority must, within 3 months from the meeting of the Committee at which the application is considered –

- (a) allow the application;
- (b) allow the application in part and refuse the remaining part; or
- (c) refuse the application.”;

- (n) in section 19(3) and (4), by adding “or (2B)(a) or (b)” after “or (b)”;
- (o) in section 19(5), by adding “or (2B)(b) or (c)” after “or (c)”;
- (p) by repealing section 23(1) and substituting –
 - “(1) The Building Authority may refer, either in whole or in part, an application under section 21(2) to a Registration Committee for recommendation if the Authority considers it appropriate to do so after taking into account –
 - (a) the nature of the type or types of minor works under one or more classes to which the application relates; or
 - (b) any matter that is relevant for determining whether the applicant complies with the requirements set out in subsections (5) and (6).”;
- (q) in section 23, by adding –
 - “(2A) If the Building Authority considers it appropriate to refer the application to a Registration Committee, the Authority must direct the Committee to meet, within 3 months from receiving the application, to consider the application.”;
- (r) in section 23(3), by repealing “refers the application” and substituting “refers an application”;
- (s) by repealing section 23(3)(d) and substituting –
 - “(d) defer the determination of the application for a period not exceeding 6 months, and –

- (i) refer the application again to a Registration Committee for recommendation after that period on the request of the applicant; and
 - (ii) direct the Committee to meet, within 3 months from receiving the request, to consider the application.”;
- (t) by repealing section 25(1) and substituting –
 - “(1) The Building Authority may refer, either in whole or in part, an application under section 24(1) to a Registration Committee for recommendation if the Authority considers it appropriate to do so after taking into account –
 - (a) the nature of the type or types of minor works under one or more classes to which the application relates; or
 - (b) any matter that is relevant for determining whether the applicant complies with the requirements set out in subsections (5) and (6).”;
- (u) in section 25, by adding –
 - “(2A) If the Building Authority considers it appropriate to refer the application to a Registration Committee, the Authority must direct the Committee to meet, within 3 months from receiving the application, to consider the application.”;
- (v) in section 25(3), by repealing “refers the application” and substituting “refers an application”;

- (w) by repealing section 25(3)(d) and substituting –
- “(d) defer the determination of the application for a period not exceeding 6 months, and –
- (i) refer the application again to a Registration Committee for recommendation after that period on the request of the applicant; and
- (ii) direct the Committee to meet, within 3 months from receiving the request, to consider the application.”;
- (x) in Part 4, by repealing Division 6 and substituting –

“Division 6 – Reviews and Appeals

26. Review of decisions of Building Authority or recommendations of Minor Works Contractors Registration Committee

- (1) A person who is aggrieved by –
- (a) a decision of the Building Authority to refuse the person’s application under section 11, 12, 15, 19, 22, 23, 25 or 65;
- (b) a decision of the Building Authority to defer the determination of the person’s application under section 12, 23 or 25; or
- (c) a recommendation of a Registration Committee made in respect of the person’s

application for the purposes of section 12, 15, 19, 23 or 25, may request a Registration Committee to review the decision or recommendation.

- (2) The request must –
 - (a) be in the specified form;
 - (b) be accompanied by the prescribed fee;
 - (c) state the substance of the matter and reasons for requesting the review; and
 - (d) be submitted to the Building Authority within 28 days from the date on which the reasons for the decision, or the decision to which the recommendation relates, were given to the person under section 11(5), 12(8), 15(5)(a), 19(5), 22(5), 23(8), 25(8) or 65(6).

(3) The request does not affect the operation of the decision or the effect of the recommendation.

(4) On receiving the request, the Building Authority must direct a Registration Committee to meet, within 3 months from receiving the request, to review the decision or recommendation.

(5) The Registration Committee must not consist of any member who has considered the application to which the decision or recommendation relates.

(6) In reviewing the decision or recommendation, the Registration Committee may consider any information or documentary proof that was not provided to the Building Authority or the Registration Committee concerned when the decision or recommendation was made.

(7) The Registration Committee may advise the Building Authority to –

- (a) confirm the decision, or the decision to which the recommendation relates; or
- (b) substitute the decision, or the decision to which the recommendation relates, with such other decision as the Committee thinks fit.

(8) Within 3 months from receiving the advice of the Registration Committee in respect of the request, the Building Authority must –

- (a) having regard to the advice –
 - (i) confirm the decision; or
 - (ii) subject to subsection (9), substitute the decision with such other decision as the Authority thinks fit; and
- (b) notify the person making the request in writing of –
 - (i) the advice of the Committee and the

reasons for the advice;
and

- (ii) the decision of the Authority under paragraph (a) and the reasons for the decision.

(9) The Building Authority may make a decision to allow the application to which the request relates only if the Registration Committee so advises.

26A. Appeal against advice of Minor Works Contractors Registration Committee or decisions of Building Authority under section 26

(1) A person who is aggrieved by any advice of a Registration Committee, or a decision of the Building Authority, made in respect of the person's request under section 26 may appeal to the Court of First Instance.

(2) The practice for the appeal is subject to any rules of court made under the High Court Ordinance (Cap. 4).”