

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).”.