

## **LEGISLATIVE COUNCIL BRIEF**

Buildings Ordinance  
(Chapter 123)

### **BUILDINGS (AMENDMENT) BILL 2010**

#### **INTRODUCTION**

At the meeting of the Executive Council on 12 January 2010, the Council ADVISED and the Chief Executive ORDERED that the Buildings (Amendment) Bill 2010 (the Amendment Bill) at **Annex A** should be introduced into the Legislative Council (LegCo) for the implementation of a mandatory building inspection scheme (MBIS) and a mandatory window inspection scheme (MWIS).

#### **JUSTIFICATIONS**

2. Building neglect has been a long-standing problem in a highly developed and densely populated city like Hong Kong with a stock of aging buildings. The myriad of building defects includes structural deterioration, concrete spalling, defective drainage and defects in building fire safety provisions. These pose safety hazard not only to the building occupants but also to other building users and pedestrians nearby. Lack of proper maintenance and improper use of windows have also resulted in incidents of window components falling from height, posing a serious threat to public safety.

3. The cost of building neglect is huge at both the societal and individual levels. Over the years, the Government has devoted substantial resources to tackle building maintenance and safety problems through enforcement and public education. Under the existing Buildings Ordinance (Cap. 123) (BO), it is only when a building becomes dangerous or is liable to become dangerous or there is defect or dilapidation in a building that the Building Authority (BA) may order the owner to carry out repair and rectification works. The BO does not empower the BA to require the owner to carry out periodic inspections and conduct necessary preventive repair works for the regular maintenance of the building.

4. To properly maintain Hong Kong's aging building stock and protect public safety in a sustainable manner, it is necessary to ensure that building owners will take up the responsibility for inspecting their own properties on a

regular basis. We conducted a two-stage public consultation in 2003 and 2005, and sought views of the community and various key stakeholders including owners, professional bodies and the building industry on how best to tackle the long-term building neglect problem in Hong Kong. The consultation pointed to a community consensus that owners should be responsible for keeping their buildings in good repair, including shouldering the financial commitment, and that mandatory inspection schemes should be pursued. The Government thus announced in mid-2007 the plan to legislate for the implementation of the mandatory inspection schemes for buildings and windows. The ensuing paragraphs outline the key features of the MBIS and MWIS, formulated after taking into account the views and comments collected during the two-stage public consultation.

## Mandatory Building Inspection Scheme

### *Target Buildings*

5. The MBIS will cover private buildings aged 30 years or above, except domestic buildings not exceeding three storeys in height. The BA will select around 2 000 private buildings (involving an estimate of around 70 000 units) every year and require their owners to carry out inspection and repair works in relation to the common parts, external walls and projections of the buildings. Owners of the buildings so selected, after the first inspection, will be required to carry out building inspections once every ten years.

### *Service Providers*

6. Currently under the BO, major building works that require the BA's approval and consent have to be undertaken by authorized persons (APs) and registered structural engineers (RSEs) registered under the BO. There are about 1 800 of them at present. We recognise that building inspections to be conducted under the MBIS will be relatively simple. To allow more choices for building owners and enhance market competition, the pool of service providers for building inspections will be expanded from APs and RSEs to registered architects, registered professional engineers of the relevant disciplines and registered professional surveyors of the relevant disciplines. These architects, engineers and surveyors have to be registered with their respective statutory professional registration boards and possess relevant work experience in the field of building construction, repair and maintenance. All professionals in the expanded pool will be registered as "registered inspectors" (RIs) for carrying out inspections for the MBIS under the BO. The registration procedures for RIs will be in line with those for APs and RSEs under the BO. With this expansion, we expect that the number of RIs can reach some 6 500,

which should be adequate to meet the market demand upon implementation of the MBIS. The expansion will at the same time promote competition in the industry.

7. As regards the carrying out of building repair works under the MBIS, it should follow the existing procedures provided for under the BO. With the forthcoming introduction of the minor works control system<sup>1</sup>, building owners may opt to conduct repair works with a new set of simplified procedures should such repair works fall within the definition of minor works. We anticipate that repair works for most typical buildings should be minor works and that owners could hence carry out the works in a more efficient and less costly manner. The operational procedures of the MBIS are summarised at **Annex B**.

#### *Unauthorised Building Works (UBWs)*

8. UBWs identified in the MBIS will be handled in accordance with the existing enforcement policy of prioritising action according to the conditions and circumstances of the UBWs of the Buildings Department (BD). We will not require the demolition of all UBWs as this may cause undue difficulties and disturbance to building owners and owners' corporations (OCs) as well as hamper the implementation of the MBIS. Instead, the RIs appointed for MBIS inspections will be required to report to the BA UBWs identified in the common parts and external walls of the buildings (but not those inside individual units that are not covered by the MBIS) inspected and assess the safety conditions of these UBWs. For UBWs posing an imminent danger, BD will follow its existing enforcement policy and order their removal. For UBWs posing no obvious or imminent danger, BD will consider issuing warning notices and registering such notices as appropriate in the Land Registry. However, as it would be more convenient and less costly for individual owners to remove UBWs in one go together with other rectification works to be carried out in the common parts/external walls of the buildings, we will encourage the owners to do so on a voluntary basis and provide appropriate technical and financial assistance. We will also invite owners to join the "Household Minor Works Validation Scheme"<sup>2</sup> under the minor works control system. Under the

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<sup>1</sup> Under the minor works control system, prior approval of building plans and consent to commence works by the BA will not be required for the carrying out of small-scale and relatively less complex building works. Registration of contractors started in late 2009. We aim to fully commence the new system in early 2010.

<sup>2</sup> Currently, there exist small-scale building works carried out in buildings without obtaining prior approval and consent from the BA and are hence unauthorised. Some of these items are of practical use for the households concerned. A Household Minor Works Validation Scheme will be established to rationalise three types of minor works carried out under such circumstances, viz. supporting frames for air conditioners, drying racks and small canopies over windows. Under the Scheme, we will allow owners to retain these features for continued use after inspection and/or strengthening, if necessary. Enforcement action will not be taken by BD against the validated minor household structures unless there is a change in their safety conditions. Nevertheless, the legal status of such structures will remain unauthorised and will not change by joining the validation scheme.

Scheme, owners may retain three types of commonly found small-scale household UBWs (i.e. supporting frames for air conditioners, drying racks and small canopies over windows) for continued use after safety inspection and necessary remedial works are conducted. Validated UBWs will be subject to periodic inspections under the MBIS in the future cycles.

## Mandatory Window Inspection Scheme

### *Target Buildings*

9. The MWIS will cover private buildings aged ten years or above, except domestic buildings not exceeding three storeys in height. The BA will select around 5 800 private buildings (involving an estimate of around 200 000 units) every year and require their owners to carry out inspection and repair works in relation to windows in common parts as well as individual premises of the buildings. Owners of buildings so selected, after the first inspection, will be required to carry out window inspections once every five years.

10. To minimise disturbance to owners, BD will attempt to synchronise the implementation of the MBIS and MWIS. Buildings selected for the MBIS will also be selected for the MWIS under the same cycle as far as practicable such that the owners can carry out inspection and repair works under both schemes concurrently. The streamlined arrangements will help save time and resources for both the building owners and BD.

### *Service Providers*

11. In comparison with building inspections under the MBIS, the demand for window inspections under the MWIS will be even higher. Window inspections are relatively more straightforward and simpler than building inspections. To ensure that there will be adequate qualified personnel to meet the demand of the public and also to enhance market competition, the pool of service providers for window inspections will be expanded to include APs, RSEs, RIs, registered general building contractors (RGBCs) and registered minor works contractors (RMWCs)<sup>3</sup>. As such personnel have already been registered in their relevant disciplines under the BO, they will not require separate registration and will be deemed to be a new class of personnel, namely “qualified persons” (QPs), under the Ordinance. With the expansion of the pool, we expect that the number of QPs can reach some 30 000. As window repair works are relatively simple in nature, we expect that most repair works for windows will be minor works. Building owners may follow the simplified

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<sup>3</sup> RMWCs who are registered to conduct window works under the minor works control system

procedures under the minor works control system to carry out such works in a more efficient and less costly manner. The operational procedures of the MWIS are summarised at Annex C.

### Assistance to Owners

12. One area of concern of the public over the implementation of the MBIS and MWIS is the lack of the required knowledge, expertise and financial ability of the building owners to fulfill the requirements of regular inspection and repair. We recognise the importance and need to provide adequate support to building owners in need in order to ensure that the two Schemes can be implemented smoothly. We have secured the support of the Hong Kong Housing Society (HKHS) to provide financial and technical assistance to eligible owners. The Society has agreed to subsidise eligible owners the cost of the first building inspection under the MBIS. The Society will also continue to assist owners to establish OCs, provide interest-free loans or grants to eligible owners for the required maintenance/rectification works as well as offer technical and general legal advice on matters relating to formation of OCs, building inspection and the required repair works. We believe that the support to be provided by HKHS, in particular the subsidy for first mandatory building inspection for eligible owners, would be of practical assistance to owners and would help solicit their acceptance of the Scheme.

13. The various existing building maintenance financial assistance schemes will also be applicable to repair works to be carried out under the MBIS and MWIS. Examples include the Comprehensive Building Safety Improvement Loan Scheme administered by BD and the Building Maintenance Grant Scheme for Elderly Owners administered by HKHS. We have also launched the Operation Building Bright in May 2009 (involving a total budget of \$2 billion) to provide subsidies and one-stop technical assistance to help owners of around 2 000 buildings aged 30 years or above to carry out repair works. The Operation would have lessened the extent of building decay upon its completion, but we have made it clear that the Operation is a one-off relief measure to create jobs after the 2008 financial tsunami, and that building maintenance is the ultimate responsibility of building owners.

### Ensuring Compliance

14. BD will monitor the progress of inspections and repair works, and ensure that building owners conduct such works in accordance with the required procedures and standards. It will be an offence if an owner fails to comply with a notice of inspection and repair for buildings or windows without reasonable excuse. It will also be an offence for any owner to obstruct a person

employed or engaged by an OC in the carrying out of or to refuse to contribute to the costs of inspections or repair works under the MBIS or MWIS. The BA may carry out the inspections and repair works required under the MBIS or MWIS upon the owners' default and recover the cost together with a 20% surcharge from the owners concerned. For the MWIS, as it is relatively simpler and less costly to comply with a notice of window inspection and repair, it is expected that there will not be a significant number of non-compliant cases. In order to provide sufficient deterrence while minimising the number of prosecution cases, a fixed penalty mechanism will be put in place where the BA may, in lieu of prosecution, require owners who fail to comply with the requirements under the MWIS to pay a fixed penalty of \$1,500.

### Regulation of Service Providers

15. In carrying out building and window inspections and repair works, RIs, QPs, RGBCs and RMWCs shall observe the BO and the relevant regulations. Clear guidelines on their duties and responsibilities, technical standards, practices and procedural requirements for building and window inspections and repairs will be provided to them in the relevant regulations under the BO. BD will also issue codes of practice, practice notes, guidelines and pamphlets for service providers, OCs and building owners to facilitate their understanding of and compliance with the MBIS and MWIS, and give owners a clear idea about the duties of the building professionals and contractors they will engage. An RI, QP, RGBC or RMWC who fails to fulfill the statutory duties and requirements may be subject to disciplinary and prosecution action, and may be imprisoned, fined, removed from the respective registers, prohibited from certifying building/window inspections/repairs for a specified period or reprimanded. Reference has been made to the penalties for building professionals and contractors in the existing BO and its regulations in determining the level of sanctions.

### Voluntary Inspection

16. While the MBIS and MWIS only apply to buildings aged 30 years or above and ten years or above respectively, owners of buildings of any age may, while not subject to any statutory notices, voluntarily carry out inspections and repair works to the same scopes and standards as those under the mandatory schemes. If the owners intend to conduct the inspections and repair works to the same scope and standard as the MBIS/MWIS, they must appoint and specifically require the qualified personnel (i.e. RIs, QPs, RGBCs and RMWCs) to carry out such inspections and repair works. The professional personnel and contractors so hired shall carry out the inspections and repair works in accordance with the same scope, standard and requirements as the MBIS/MWIS,

and will be subject to the same responsibilities and sanctions as if they were hired to comply with a statutory notice under the MBIS/MWIS. Upon completion of the inspection and repair works, the RIs/QPs may submit certificates and reports to the BA. If the BA is satisfied that the same requirements as those under the MBIS/MWIS are complied with, he may consider that it is not necessary for the concerned buildings to carry out mandatory inspections in the next cycle of the MBIS/MWIS (if those buildings are covered by the scopes of the mandatory schemes).

### Voluntary Building Classification Scheme

17. To give positive recognition to buildings which are properly maintained and well-managed, a Voluntary Building Classification Scheme (VBCS) will be launched prior to the implementation of the two mandatory schemes. We have obtained the agreement of the HKHS to undertake the implementation of the VBCS. The scope of certification to be covered by the VBCS will be wider than that of the MBIS. Apart from building structural safety, the VBCS will also include building management, building services (such as fire service installation systems, lifts and escalators, electrical installation systems, gas supply systems, etc.), environmental protection and other value-adding elements (e.g. energy efficiency improvement installations) in buildings. The building structural safety standards and requirements of the VBCS will be on par with, or higher than, those under the MBIS. As such, the BA may consider that it is not necessary for the buildings with satisfactory building safety ratings under the VBCS to carry out building inspections in the relevant cycles of the MBIS as long as the ratings remain valid. HKHS is working on the modus operandi of the VBCS in consultation with BD. The Scheme will dovetail with the MBIS and is scheduled to be launched about half a year prior to the implementation of the MBIS.

### Dispute Resolution

18. There were views during the two-stage public consultation advocating the establishment of a simple and low-cost dispute resolution mechanism, in the form of a tribunal, to resolve disputes related to building management and maintenance (BMM). During the consultation, the Hong Kong Institute of Surveyors and others put forward a proposal to establish a “Building Affairs Tribunal” (BAT) to dispense with legal representation. LegCo passed in November 2006 a building management-related motion<sup>4</sup> urging the

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<sup>4</sup> The full wording of the motion are as follows: “That, in order to enhance the existing building management standard, avoid malpractices and effectively deal with disputes involving the management of private buildings (including those public housing estates and Home Ownership Scheme courts the management of which has been outsourced to private management companies), this Council urges the Government, apart from clearly defining the powers and responsibilities of the parties concerned in the Building Management Ordinance and

Government to establish a BAT to streamline and speed up the handling of the increasing BMM disputes. The Ombudsman also, in the context of her direct investigations into “Enforcement of the Building Management Ordinance” as well as “Handling of Water Seepage Complaints”, recommended the establishment of a BAT as an effective channel to solve BMM disputes.

19. On the other hand, some stakeholders suggested that improvements to the existing mechanism under the Lands Tribunal (LT) would be a better option. The Hong Kong Bar Association also considered that the LT was appropriate and was capable of handling building management claims. To facilitate the efficient, expeditious and fair disposal of building management cases, the Judiciary launched a pilot scheme at the LT in January 2008 to encourage, amongst others, the use of mediation to resolve BMM disputes. The Judiciary has reviewed the pilot scheme and considered it generally effective. The measures in the pilot scheme have been adopted as the standard practice of the LT with effect from July 2009. With the scheme in place, building owners now have a more efficient and less costly channel to resolve BMM disputes.

20. Whilst appreciating the merits of a simple dispute resolution mechanism, we need to carefully explore the feasibility of such a proposal, in particular the constitutional and human rights implications if the proposed mechanism is to dispense with legal representation in order to achieve savings in cost and time. We also need to address the concerns over the possible duplication of efforts and unnecessary complication of the court and tribunal system with the establishment of a new mechanism. The Administration will continue to study the feasibility of setting up a simple dispute resolution mechanism, including the possibility of mediation and/or further improving the LT mechanism, to handle building management claims more efficiently.

## THE BILL

21. The main provisions of the Amendment Bill are as follows –

- (a) **Clause 3** amends the long title of the BO to widen the scope of the Ordinance to provide for regular inspections of buildings and the associated repairs to prevent the buildings from being unsafe;

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by establishing a mechanism for amending extremely unreasonable provisions in the deed of mutual covenants, to expeditiously implement a licensing regime for property management companies and, through preventing conflict of interests and enhancing financial transparency, to strengthen their regulation and ensure fair competition in the property management market and, at the same time, establish a Building Affairs Tribunal to streamline and speed up the handling of the increasing disputes among owners, developers, owners' corporations and property management companies; and conduct a study on establishing a mechanism to assist small property owners in resuming their management right in the situation of the existence of a sub-deed of mutual covenant so as to safeguard their interests.”



- (b) **Clause 4** amends section 2 of the BO to include new definitions of “common parts”, “external wall”, “prescribed inspection” and “prescribed repair” to define the scope of the MBIS and MWIS, and the definitions of new classes of professional and personnel, namely “registered inspector” and “qualified person”;
- (c) **Clause 6** amends section 3 of the BO to provide for the matters relating to registration of RIs;
- (d) **Clauses 7, 8, 10 and 13** amend sections 5, 5A, 7 and 13 of the BO to provide for the matters relating to disciplinary actions against RIs for non-compliance of duties and requirements of prescribed inspections and prescribed repairs in respect of buildings in the capacity as RIs and against APs, RSEs, RIs, RGBCs and RMWCs for non-compliance of duties and requirements of prescribed inspections and prescribed repairs in respect of the windows in buildings in the capacity as QPs;
- (e) **Clause 19** adds a new Part IIA to the BO. In particular, it adds –
  - (i) a new section 30A to the BO to provide for the application of the new Part IIA;
  - (ii) a new section 30B to the BO to empower the BA to require owners to carry out prescribed inspections and, if necessary, prescribed repairs in respect of buildings under the MBIS;
  - (iii) a new section 30C to the BO to empower the BA to require owners to carry out prescribed inspections and, if necessary, prescribed repairs in respect of the windows in buildings under the MWIS;
  - (iv) a new section 30D to the BO to provide for the appointment and duties of RIs in relation to prescribed inspections and prescribed repairs in respect of buildings;
  - (v) a new section 30E to the BO to provide for the appointment and duties of QPs in relation to prescribed inspections and prescribed repairs in respect of the windows in buildings; and
  - (vi) a new section 30F to the BO to provide for the duties of RGBCs and RMWCs in relation to prescribed inspections and prescribed repairs in respect of buildings and the windows in buildings;

- (f) **Clause 23** amends section 38 of the BO to empower the Secretary for Development to make regulations for matters including the registration of RIs, the scope, standard and requirements of prescribed inspections and prescribed repairs, and the appointments and duties of RIs, QPs, RGBCs and RMWCs for prescribed inspections and prescribed repairs;
- (g) **Clause 25** amends section 39B of the BO to provide for an offence where an owner obstructs an OC in carrying out or refuses to contribute to the costs of inspection or repair works under the MBIS or MWIS;
- (h) **Clause 27** amends section 40 of the BO to provide for the penalties in relation to the offences associated with prescribed inspections and prescribed repairs; and
- (i) **Clause 36** adds a new Schedule to the BO to empower the BA to issue a fixed penalty notice to an owner who fails to comply with a notice of prescribed inspection and prescribed repair under the MWIS.

22. The existing provisions to be amended are at **Annex D**.

## **LEGISLATIVE TIMETABLE**

23. The legislative timetable is as follows –

Publication in the Gazette	22 January 2010
First Reading and commencement of Second Reading debate	3 February 2010
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

## **IMPLICATIONS OF THE PROPOSAL**

24. The proposal's financial, civil service, economic, environmental and sustainability implications are set out at **Annex E**. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The Amendment Bill would not change the binding effect of the BO. The proposal has no productivity or competition implications.

## **PUBLIC CONSULTATION**

25. We conducted a two-stage public consultation in 2003 and 2005 and consulted the relevant professional bodies and stakeholders. We briefed the then LegCo Panel on Planning, Lands and Works the result of the consultation and the proposed way forward in 2007. Members generally welcomed the proposed introduction of the MBIS and MWIS, and were glad that the final proposal had incorporated comments received during the consultation exercises. They also noted the proposed technical and financial assistance package that would be available to building owners, and commented that coordinated efforts had to be made to help the owners in need in complying with the two Schemes. We also discussed with the LegCo Panel on Development in 2008 and 2009 the topical issues concerning the MBIS and MWIS as outlined in paragraphs 5 to 11 and 15 above. BD has been liaising closely with the industry in mapping out the modus operandi, codes of practice and guidelines for the two mandatory schemes. The public, LegCo and stakeholders are generally supportive of the principles and direction of the MBIS and MWIS.

## **PUBLICITY**

26. A press conference will be held and a press release will be issued today (21 January 2010). A spokesman will be available to answer media and public enquiries.

## **BACKGROUND**

27. To engage the community to put in place long-term measures to resolve the problem of building neglect, the then Housing, Planning and Lands Bureau (HPLB) conducted a two-stage public consultation in 2003 and 2005. There was general community support towards the introduction of mandatory inspection schemes as a practicable solution to ensure a better and safer building environment. The then HPLB published the report of the second public consultation in May 2007, announcing that the Government would legislate in the long run for the implementation of the mandatory inspection schemes.

## **ENQUIRY**

28. Any enquiry on this brief may be addressed to Mr Edward To, Principal Assistant Secretary for Development (Planning and Lands) on 2848 6288.

**Development Bureau**  
**21 January 2010**

**BUILDINGS (AMENDMENT) BILL 2010**

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## A BILL

To

Amend the Buildings Ordinance to provide for matters relating to the regular inspections of buildings and the associated repairs to prevent the buildings from becoming unsafe; and to make related, consequential and other minor amendments.

Enacted by the Legislative Council.

## PART 1

### PRELIMINARY

#### **1. Short title**

This Ordinance may be cited as the Buildings (Amendment) Ordinance 2010.

#### **2. Commencement**

This Ordinance comes 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. Long title amended**

The long title to the Buildings Ordinance (Cap. 123) is amended by adding “to make provision for regular inspections of buildings and the associated repairs to prevent the buildings from becoming unsafe;” after “land;”.



#### 4. Interpretation

(1) Section 2(1) is amended, in the definition of “contraventions of the provisions of this Ordinance”, in paragraph (a), by adding “, notice served” before “or any”.

(2) Section 2(1) is amended, in the definition of “prescribed building professional”, by repealing “or a registered geotechnical engineer” and substituting “, a registered geotechnical engineer or a registered inspector”.

(3) Section 2(1) is amended, in the definition of “Registration Committee”, by repealing “Committee or” and substituting “Committee, an Inspectors Registration Committee or”.

(4) Section 2(1) is amended, in the English text, in the definition of “scheduled areas”, by repealing “the Fifth Schedule” and substituting “Schedule 5”.

(5) Section 2(1) is amended, in the Chinese text, by repealing the definition of “指明文件” and substituting –

““指明文件” (specified document) 指 –

- (a) 根據本條例或為施行本條例而擬備、發出或給予的文件，或向建築事務監督呈交或由建築事務監督批准的圖則，或根據《1935 年建築物條例》(1935 年第 18 號)或為施行該條例而擬備、發出或給予的文件，或向建築事務監督呈交或由建築事務監督批准的圖則；或
- (b) 該文件或圖則的任何部分；”。

(6) Section 2(1) is amended by adding –

““common parts” (公用部分) has the meaning given by section 2 of the Building Management Ordinance (Cap. 344);

“external wall” (外牆) means the whole, or any part, of an outer wall of a building even though adjoining a wall of another building and includes a party wall;

“prescribed inspection” (訂明檢驗) means an examination or assessment of a building as prescribed in the regulations;

“prescribed repair” (訂明修葺) means a repair or testing of a building as prescribed in the regulations;

“qualified person” (合資格人士) means a person whose name is for the time being on any of the following registers –

- (a) authorized persons’ register kept under section 3(1);
- (b) structural engineers’ register kept under section 3(3);
- (c) inspectors’ register kept under section 3(3B);
- (d) register of general building contractors kept under section 8A;
- (e) register or provisional register of minor works contractors, under the class, type and item of minor works in respect of windows, kept under section 8A,

and who is not subject to any disciplinary order under section 7(2)(bb) or (d) or 13(4)(d) or (e);

“registered inspector” (註冊檢驗人員) means a person whose name is for the time being on the inspectors’ register kept under section 3(3B);”.

(7) Section 2(2) is amended, in the English text, by repealing “the Fourth Schedule” and substituting “Schedule 4”.

(8) Section 2(3) is amended, in the English text, by repealing “the Fourth or Fifth Schedule” and substituting “Schedule 4 or 5”.

## **5. Part heading amended**

The heading of Part I is amended by adding “, REGISTERED INSPECTORS” before “AND”.

## **6. Registers of authorized persons, structural engineers and geotechnical engineers**

(1) The heading of section 3 is amended by repealing “**and geotechnical engineers**” and substituting “, **geotechnical engineers and inspectors**”.

(2) Section 3 is amended by adding –

“(3B) The Building Authority must keep a register (the “inspectors’ register”) of all persons who are qualified to perform the duties and functions of inspectors in accordance with this Ordinance.

(3C) The inspectors’ register contains –

- (a) a list of architects;
- (b) a list of engineers; and
- (c) a list of surveyors.”.

(3) Section 3(4) is amended –

- (a) in paragraph (b), by repealing “and”;
- (b) in paragraph (c), by repealing the full stop and substituting “; and”;
- (c) by adding –
  - “(d) the persons included in each of the lists in the inspectors’ register.”.

(4) Section 3(5) is amended by repealing “3” and substituting “4”.

(5) Section 3(5) is amended by repealing “and Geotechnical Engineers Registration Committees” and substituting “, Geotechnical Engineers Registration Committees and Inspectors Registration Committees”.

(6) Section 3 is amended by adding –

“(5CB) An Inspectors Registration Committee consists of –

- (a) 1 registered inspector nominated by the Architects Registration Board from the list of architects in the inspectors’ register;
- (b) 1 registered inspector nominated by the Engineers Registration Board from the list of engineers in the inspectors’ register;
- (c) 1 registered inspector nominated by the Surveyors Registration Board from the list of surveyors in the inspectors’ register;
- (d) 1 person nominated by the Building Authority as the Building Authority’s representative; and
- (e) 1 person selected by the Building Authority from among the persons nominated in accordance with subsection (5E).”.

(7) Section 3(5E) is amended by repealing “and (5CA)” and substituting “, (5CA) and (5CB)”.

(8) Section 3(5F) is amended by adding “(other than an Inspectors Registration Committee)” after “Committee”.

(9) Section 3 is amended by adding –

“(5FA) A person appointed to be a member of the Registered Inspectors’ Disciplinary Board Panel under section 5A must not be a member of an Inspectors Registration Committee.”.

(10) Section 3(5G) is amended by repealing “Committee)” and substituting “Committee or an Inspectors Registration Committee)”.

(11) Section 3 is amended by adding –

“(5GB) The quorum for a meeting of an Inspectors Registration Committee is –

- (a) the Chairman of the committee;
- (b) the Building Authority’s representative under subsection (5CB)(d); and
- (c) 1 other member.”.

(12) Section 3(5H) is amended by adding “(other than an Inspectors Registration Committee)” after “of the Registration Committee”.

(13) Section 3(6) is amended by repealing “or the geotechnical engineers’ register” and substituting “, the geotechnical engineers’ register or the inspectors’ register”.

(14) Section 3(7)(b) is amended by adding “subject to subsection (7AA),” before “he”.

(15) Section 3 is amended by adding immediately before subsection (7A) –

“(7AA) A person may be included in the inspectors’ register without recommendation by an Inspectors Registration Committee if the person is –

- (a) an authorized person or a registered structural engineer with relevant experience as prescribed in the regulations; or
- (b) within the period of 12 months beginning on the commencement of section 6 of the Buildings (Amendment) Ordinance 2010 ( of 2010) –

- (i) a registered architect nominated by the Architects Registration Board with not less than 5 years of experience in building design, construction, repair and maintenance before the nomination;
  - (ii) a registered professional engineer nominated by the Engineers Registration Board with not less than 5 years of experience in building design, construction, repair and maintenance before the nomination; or
  - (iii) a registered professional surveyor nominated by the Surveyors Registration Board with not less than 5 years of experience in building design, construction, repair and maintenance before the nomination.”.
- (16) Section 3(7D) is repealed and the following substituted –
 

“(7D) In subsections (7), (7A), (7B) and (7C), “register” (名冊) means the authorized persons’ register kept under subsection (1), the structural engineers’ register kept under subsection (3), the geotechnical engineers’ register kept under subsection (3A) or the inspectors’ register kept under subsection (3B), as the case requires.”.
- (17) Section 3(8) is amended –
  - (a) in paragraph (b), by repealing “and”;

- (b) in paragraph (c), by repealing the comma and substituting “; and”;
- (c) by adding –
  - “(d) the inspectors’ register,”;
- (d) by repealing “register.” and substituting “register or the inspectors’ register.”.

(18) Section 3(9) is amended by repealing “or in the geotechnical engineers’ register” and substituting “, in the geotechnical engineers’ register or in any list in the inspectors’ register (except for an application made by a person mentioned in subsection (7AA))”.

(19) Section 3 is amended by adding immediately before subsection (9A) –

“(9AA) For an application made by a person mentioned in subsection (7AA) for inclusion in any list in the inspectors’ register, the Building Authority must within 1 month after the date of receiving the application –

- (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 the name of that applicant; or
- (b) refuse the application.”.

(20) Section 3(9B)(a) is amended by repealing “or the geotechnical engineers’ register” and substituting “, the geotechnical engineers’ register or the inspectors’ register”.

(21) Section 3(9D) is amended by repealing “or a registered geotechnical engineer” and substituting “, a registered geotechnical engineer or a registered inspector”.

(22) Section 3(9E) is amended by repealing “or geotechnical engineer” and substituting “, geotechnical engineer or inspector”.

(23) Section 3(11) is amended by repealing “or the geotechnical engineers’ register” and substituting “, the geotechnical engineers’ register or the inspectors’ register”.

(24) Section 3(11A) is amended by repealing “or the geotechnical engineers’ register” and substituting “, the geotechnical engineers’ register or the inspectors’ register”.

(25) Section 3(11B) is amended by repealing “or the geotechnical engineers’ register” and substituting “, the geotechnical engineers’ register or the inspectors’ register”.

(26) Section 3(11B) is amended by repealing “or a registered geotechnical engineer” and substituting “, a registered geotechnical engineer or a registered inspector”.

(27) Section 3(13)(c) is amended by repealing the full stop and substituting “; and”.

(28) Section 3(13A) is amended by repealing “or a registered geotechnical engineer” and substituting “, a registered geotechnical engineer or a registered inspector”.

## **7. Appointment and powers of disciplinary board**

(1) Section 5(2) is amended by repealing “such board shall consist” and substituting “disciplinary board to conduct a hearing of disciplinary proceedings against an authorized person, a registered structural engineer or a registered geotechnical engineer consists”.

(2) Section 5 is amended by adding immediately before subsection (2A) –

“(2AA) Every disciplinary board to conduct a hearing of disciplinary proceedings against a registered inspector consists of –

- (a) 4 persons who are members of the Registered Inspectors’ Disciplinary Board



Panel appointed under section 5A, of whom at least –

- (i) 1 is a person mentioned in section 5A(2A)(a);
- (ii) 1 is a person mentioned in section 5A(2A)(b);
- (iii) 1 is a person mentioned in section 5A(2A)(c); and
- (b) 1 person selected from among the persons nominated in accordance with subsection (3A).”.

(3) Section 5(2B) is amended by repealing “or a registered geotechnical engineer” and substituting “, a registered geotechnical engineer or a registered inspector”.

(4) Section 5(3A) is amended by repealing “subsection (2)(b)” and substituting “subsections (2)(b) and (2AA)(b)”.

## **8. Authorized Persons’, Registered Structural Engineers’ and Registered Geotechnical Engineers’ Disciplinary Board Panel**

(1) The heading of section 5A is amended by adding “**and Registered Inspectors’ Disciplinary Board Panel**” after “**Panel**”.

(2) Section 5A(1) is amended by repealing “Panel,” and substituting “Panel and a Registered Inspectors’ Disciplinary Board Panel, both of”.

(3) Section 5A is amended by adding –

“(2A) The Registered Inspectors’ Disciplinary Board Panel consists of not more than 15 members, of whom not less than 1 and not more than –

- (a) 5 are registered inspectors in the list of architects;

(b) 5 are registered inspectors in the list of engineers; and

(c) 5 are registered inspectors in the list of surveyors.

(2B) For the purpose of subsections (2) and (2A), each member of the relevant Panel may only take up one seat of membership in the Panel even if the member's name is included in more than one of the lists or registers mentioned in those subsections.”.

(4) Section 5A(3) is amended by adding “or (2A)” after “subsection (2)”.

## **9. Secretary to the disciplinary board**

(1) Section 5AA(1) is amended, in the English text, by repealing “Secretary” and substituting “secretary”.

(2) Section 5AA(2) is amended, in the English text, by repealing “Secretary to” and substituting “secretary to”.

(3) Section 5AA(2)(a) is amended by repealing “for Development”.

## **10. Disciplinary proceedings for authorized person, registered structural engineer or registered geotechnical engineer**

(1) The heading of section 7 is amended by repealing “**or registered geotechnical engineer**” and substituting “**, registered geotechnical engineer or registered inspector**”.

(2) Section 7(1) is amended by repealing “or a registered geotechnical engineer” and substituting “, a registered geotechnical engineer or a registered inspector”.

(3) Section 7(1) (as amended by section 9 of the Buildings (Amendment) Ordinance 2008 (20 of 2008) (referred to as the “amending Ordinance” in the following provisions)) is amended –

(a) in paragraph (bb), by repealing “or” at the end;

- (b) by adding –
  - “(bc) render the person unfit for certifying any prescribed inspection, or certifying or supervising any prescribed repair;
  - (bd) make further certification of any prescribed inspection, or certification or supervision of any prescribed repair, by that person prejudicial to the due administration of this Ordinance;
  - (be) render the person deserving of suspension from certifying any prescribed inspection, or certifying or supervising any prescribed repair; or”;
- (c) in paragraph (c) –
  - (i) by repealing “authorized person, registered structural engineer or registered geotechnical engineer” and substituting “person”;
  - (ii) by adding “relevant” before “register”.

(4) Section 7(1A) (as amended by section 9 of the amending Ordinance) is amended –

- (a) in paragraph (i), by repealing “or”;
- (b) in paragraph (j), by repealing the full stop and substituting a semicolon;
- (c) by adding –
  - “(k) has failed to discharge the duties, or abide by the requirements, imposed on a registered inspector under this Ordinance; or
  - (l) has failed to discharge the duties, or abide by the requirements, imposed on a qualified person under this Ordinance.”.

(5) Section 7(2) (as amended by section 9 of the amending Ordinance) is amended by repealing “or the registered geotechnical engineer” and substituting “, the registered geotechnical engineer or the registered inspector”.

(6) Section 7(2) (as amended by section 9 of the amending Ordinance) is amended by repealing “requirements,” and substituting “requirements, or has failed to discharge the duties or abide by the requirements mentioned in subsection (1A)(k) or (l),”.

(7) Section 7(2)(a) is amended by repealing “or” at the end.

(8) Section 7(2) (as amended by section 9 of the amending Ordinance) is amended by adding –

“(aa) order that the name of the person be removed from the inspectors’ register, either permanently or for any period that the board thinks fit;”.

(9) Section 7(2)(ba) (as amended by section 9 of the amending Ordinance) is amended by repealing “authorized person, registered structural engineer or registered geotechnical engineer” and substituting “person”.

(10) Section 7(2)(ba)(i) (as amended by section 9 of the amending Ordinance) is amended by adding “a prescribed inspection (other than a prescribed inspection in respect of a window in a building) or” before “building”.

(11) Section 7(2)(ba)(ii) (as amended by section 9 of the amending Ordinance) is amended –

(a) by adding “a prescribed inspection in respect of a window in a building or” before “minor”;

(b) by repealing “or”.

(12) Section 7(2)(bb) (as amended by section 9 of the amending Ordinance) is amended –

(a) by repealing “authorized person, registered structural engineer or registered geotechnical engineer” and substituting “person”;

(b) by repealing the full stop and substituting “; or”.

(13) Section 7(2) (as amended by section 9 of the amending Ordinance) is amended by adding –

“(d) order that the person be prohibited from certifying any prescribed inspection, or certifying or supervising any prescribed repair, in respect of a window in a building, either permanently or for any period that the disciplinary board thinks fit.”.

(14) Section 7(3) is amended by repealing “or registered geotechnical engineer” and substituting “, registered geotechnical engineer or registered inspector”.

(15) Section 7(4)(a) is amended by repealing “or registered geotechnical engineer” and substituting “, registered geotechnical engineer or registered inspector”.

(16) Section 7(4)(a) is amended by adding “within 28 days of the order of the disciplinary board” after “Instance”.

(17) Section 7(4)(c) is repealed.

## **11. Appeals from Registration Committees**

(1) Section 9A(1) is amended by adding “within 28 days of the notification of the decision of the Registration Committee by the Building Authority to the person” after “Instance”.

(2) Section 9A(2) is amended by repealing “order” and substituting “decision”.

(3) Section 9A(4) is repealed.

## **12. Secretary to the disciplinary board**

(1) Section 11AA(1) is amended, in the English text, by repealing “Secretary” and substituting “secretary”.

(2) Section 11AA(2) is amended, in the English text, by repealing “Secretary to” and substituting “secretary to”.

(3) Section 11AA(2)(a) is amended by repealing “for Development”.

### **13. Disciplinary proceedings for contractors**

(1) Section 13(1) (as amended by section 15 of the amending Ordinance) is amended –

- (a) in paragraph (e), by repealing “or” at the end;
- (b) in paragraph (f), by repealing the full stop and substituting a semicolon;
- (c) by adding –
  - “(g) render the contractor unfit for certifying any prescribed inspection, or certifying or supervising any prescribed repair, in respect of a window in a building;
  - (h) make further certification of any prescribed inspection, or certification or supervision of any prescribed repair, in respect of a window in a building by that contractor prejudicial to the due administration of this Ordinance; or
  - (i) render the contractor deserving of suspension from certifying any prescribed inspection, or certifying or supervising any prescribed repair, in respect of a window in a building.”.

(2) Section 13(2) (as amended by section 15 of the amending Ordinance) is amended –

- (a) in paragraph (i), by repealing “or”;
- (b) in paragraph (j), by repealing the full stop and substituting “; or”;
- (c) by adding –
  - “(k) has failed to discharge the duties, or abide by the requirements, imposed on a qualified person, registered general building contractor or registered minor works contractor under this Ordinance in

respect of a prescribed inspection or prescribed repair.”.

(3) Section 13(4) (as amended by section 15 of the amending Ordinance) is amended by repealing “(j)” and substituting “(j) or failed to discharge the duties or abide by the requirements mentioned in subsection (2)(k)”.

(4) Section 13(4)(b)(ii) (as amended by section 15 of the amending Ordinance) is amended by adding “a prescribed inspection in respect of a window in a building or” before “minor”.

(5) Section 13(4) (as amended by section 15 of the amending Ordinance) is amended –

- (a) in paragraph (c), by repealing “or” at the end;
- (b) in paragraph (d), by repealing the full stop and substituting “; or”;
- (c) by adding –
  - “(e) in the case of a registered contractor who is a registered general building contractor or registered minor works contractor, order that the contractor be prohibited from certifying any prescribed inspection, or certifying or supervising any prescribed repair, in respect of a window in a building, either permanently or for any period that the disciplinary board thinks fit.”.

(6) Section 13(7) is amended by adding “within 28 days of the order of the disciplinary board” after “Instance”.

(7) Section 13(10) is repealed.

**14. Appeal against Building Authority’s decision**

(1) Section 13A(1) is amended by adding “within 28 days of the notification of the decision of the Building Authority by the Building Authority to the applicant” after “Instance”.

(2) Section 13A(4) is repealed.

**15. Conditions may be imposed in certain cases**

Section 17(1) is amended, in the Chinese text, in Column B, in item 1(*b*), by adding a full stop at the end.

**16. Authority to erect shoring in certain cases**

Section 18(6)(*c*) is amended, in the English text, by repealing “the Third Schedule” and substituting “Schedule 3”.

**17. Building works, etc. to cease on order of Building Authority**

(1) Section 23(1)(*b*)(i) is amended by repealing “, or” at the end and substituting a semicolon.

(2) Section 23(1)(*b*)(ii) is amended by repealing “, or” at the end and substituting “; or”.

**18. Magistrate’s warrant**

Section 28C(1) is amended, in the English text, by repealing “the Sixth Schedule” and substituting “Schedule 6”.

**19. Part IIA added**

The following is added –



## “PART IIA

### INSPECTION AND REPAIR OF BUILDING

#### **30A. Interpretation and application**

(1) In this Part, “projection” (伸出物) means a projection from a building as prescribed in the regulations.

(2) This Part does not apply to a domestic building not exceeding 3 storeys in height.

#### **30B. Obligation on owners to carry out prescribed inspection and prescribed repair in respect of buildings**

(1) This section applies to any building aged 30 years or above.

(2) The age of a building mentioned in subsection (1) is to be determined by the Building Authority –

- (a) if an occupation permit in respect of the building is issued by the Building Authority under section 21(2), according to the date the occupation permit is issued; and
- (b) in any other case, according to the evidence available to the Building Authority.

(3) The Building Authority may by notice in writing served on any owner of a building require a prescribed inspection and, if necessary, prescribed repair in respect of the common parts of the building to be carried out within a specified time.

(4) If an external wall of a building is not in the common parts of the building, the Building Authority may by notice in writing served on the owner of the external wall require a prescribed inspection and, if necessary, prescribed repair in respect of the external wall to be carried out within a specified time.

(5) Without limiting subsections (3) and (4), the Building Authority may by notice in writing served on an owner of a building require a prescribed inspection and, if necessary, prescribed repair in respect of any projection (other than a signboard) that is connected to that owner's premises in the building and is occupied or used by that owner or any occupier of that premises to be carried out within a specified time.

(6) Without limiting subsections (3) and (4), if a signboard is erected on a building, the Building Authority may by notice in writing served on –

- (a) the person for whom the signboard is erected; or
- (b) 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
- (c) if the persons referred to in paragraphs (a) and (b) cannot be found, the owner of the premises in the building on which the signboard is erected,

require a prescribed inspection and, if necessary, prescribed repair in respect of the signboard to be carried out within a specified time.

(7) In a notice served under subsection (3), (4), (5) or (6), the Building Authority may specify for a relevant part of a building –

- (a) the date by which a registered inspector must be appointed to carry out a prescribed inspection in respect of that part of the building;
- (b) the date by which a prescribed inspection in respect of that part of the building is required to be completed; and

- (c) the date by which a prescribed repair in respect of that part of the building, as may be required under subsection (8), is required to be completed.

(8) If a prescribed inspection in respect of a relevant part of a building shows that that part of the building has been rendered dangerous, or is liable to become dangerous, the owner on whom the notice is served must carry out a prescribed repair in respect of that part of the building, in accordance with this Ordinance, to render that part of the building safe.

(9) The Building Authority may cause a notice served under subsection (3), (4), (5) or (6) to be registered by memorial in the Land Registry against the building to which the notice relates.

(10) If a notice served under subsection (3), (4), (5) or (6) is not complied with, the Building Authority may, without further notification, carry out or cause to be carried out –

- (a) any inspection in respect of the common parts, external wall, projection or signboard of the building that the Building Authority considers necessary for the purpose of that notice; and
- (b) any repair works that the Building Authority considers necessary or expedient to render the building safe, having had regard to the findings of an inspection in respect of the building, whether the inspection is carried out or caused to be carried out by the Building Authority under paragraph (a), or by a registered inspector appointed under section 30D(1)(a).

(11) The cost of the inspection and repair works that the Building Authority has carried out or has caused to be carried out under subsection (10), together with a surcharge of 20% on the cost that the

Building Authority may impose, is recoverable as a debt due to the Government from –

- (a) if the notice served under subsection (3), (4), (5) or (6) has not been registered with the Land Registry under subsection (9), the person on whom the notice is served; or
- (b) if the notice served under subsection (3), (4), (5) or (6) has been registered with the Land Registry under subsection (9), the person who is the owner of the relevant part of the building –
  - (i) as at the date of completion of the inspection if the Building Authority has carried out or has caused to be carried out the inspection mentioned in subsection (10)(a) only; or
  - (ii) as at the date of completion of the repair works mentioned in subsection (10)(b) if the Building Authority has carried out or has caused to be carried out the repair works, whether or not the Building Authority has also carried out or has also caused to be carried out the inspection mentioned in subsection (10)(a).

(12) After a notice under subsection (3), (4), (5) or (6) (the “preceding notice”) has been complied with, a fresh notice in respect of the same part of the building must not be served under that subsection before the expiry of 10 years after the date of the preceding notice.

(13) In this section, a reference to an inspection or repair of any part of a building does not include an inspection or repair of the windows in the building.

**30C. Obligation on owners to carry out prescribed inspection and prescribed repair in respect of windows**

(1) This section applies to any building aged 10 years or above.

(2) The age of a building mentioned in subsection (1) is to be determined by the Building Authority –

- (a) if an occupation permit in respect of the building is issued by the Building Authority under section 21(2), according to the date the occupation permit is issued; and
- (b) in any other case, according to the evidence available to the Building Authority.

(3) Subject to subsection (4), the Building Authority may by notice in writing served on any owner of a building require a prescribed inspection and, if necessary, prescribed repair in respect of the windows in the building to be carried out within a specified time.

(4) If any window in a building is exclusively used by an owner of the building or any occupier of that owner's premises, the Building Authority may by notice in writing served only on that owner require a prescribed inspection and, if necessary, prescribed repair in respect of the window to be carried out within a specified time.

(5) In a notice served under subsection (3) or (4), the Building Authority may specify for a window in a building –

- (a) the date by which a qualified person must be appointed to carry out a prescribed inspection in respect of that window;
- (b) the date by which a prescribed inspection in respect of that window is required to be completed; and

- (c) the date by which a prescribed repair in respect of that window, as may be required under subsection (6), is required to be completed.

(6) If a prescribed inspection in respect of a window in a building shows that the window has been rendered dangerous, or is liable to become dangerous, the owner on whom the notice is served must carry out a prescribed repair in respect of the window, in accordance with this Ordinance, to render the window safe.

(7) The Building Authority may cause a notice served under subsection (3) or (4) to be registered by memorial in the Land Registry against the building to which the notice relates.

(8) If a notice served under subsection (3) or (4) is not complied with, the Building Authority may, without further notification, carry out or cause to be carried out –

- (a) any inspection in respect of the window concerned that the Building Authority considers necessary for the purpose of that notice; and
- (b) any repair works that the Building Authority considers necessary or expedient to render the window safe, having had regard to the findings of an inspection in respect of the window, whether the inspection is carried out or caused to be carried out by the Building Authority under paragraph (a), or by a qualified person appointed under section 30E(1).

(9) The cost of the inspection and repair works that the Building Authority has carried out or has caused to be carried out under subsection (8), together with a surcharge of 20% on the cost that the Building Authority may impose, is recoverable as a debt due to the Government from –

- (a) if the notice served under subsection (3) or (4) has not been registered with the Land Registry under subsection (7), the person on whom the notice is served; or
- (b) if the notice served under subsection (3) or (4) has been registered with the Land Registry under subsection (7), the person who is the owner of the relevant part of the building –
  - (i) as at the date of completion of the inspection if the Building Authority has carried out or has caused to be carried out the inspection mentioned in subsection (8)(a) only; or
  - (ii) as at the date of completion of the repair works mentioned in subsection (8)(b) if the Building Authority has carried out or has caused to be carried out the repair works, whether or not the Building Authority has also carried out or has also caused to be carried out the inspection mentioned in subsection (8)(a).

(10) After a notice under subsection (3) or (4) (the “preceding notice”) has been complied with, a fresh notice in respect of the same window must not be served under that subsection before the expiry of 5 years after the date of the preceding notice.

### **30D. Appointment and duties of registered inspectors**

(1) Any person for whom a prescribed inspection or prescribed repair in respect of a building is to be carried out must appoint –

- (a) a registered inspector to carry out the prescribed inspection; and
- (b) a registered inspector to supervise the prescribed repair.

(2) The registered inspector appointed under subsection (1)(b) may be the same registered inspector appointed under subsection (1)(a).

(3) A registered inspector appointed under subsection (1)(a) must –

- (a) carry out the prescribed inspection personally unless otherwise exempted by the regulations; and
- (b) comply generally with this Ordinance.

(4) A registered inspector appointed under subsection (1)(b) must –

- (a) provide proper supervision of the carrying out of the prescribed repair;
- (b) ensure the repair materials to be used –
  - (i) are not defective and comply with this Ordinance; and
  - (ii) have been mixed, prepared, applied, used, erected, constructed, placed or fixed in the manner required for such materials under this Ordinance;
- (c) ensure the building, for which the registered inspector is appointed to supervise the prescribed repair, is safe or has been rendered safe; and
- (d) comply generally with this Ordinance.

(5) A registered inspector appointed under subsection (1)(a) to carry out a prescribed inspection must notify the Building Authority of –

- (a) any case of emergency that is revealed during the course of the prescribed inspection;



(b) any building works that have been or are being carried out in contravention of any provision of this Ordinance in the common parts, or to an external wall that is not in the common parts, of the building, that is identified during the course of the prescribed inspection.

(6) A registered inspector appointed under subsection (1)(b) to supervise a prescribed repair must notify the Building Authority of any case of emergency that is revealed during the course of supervision of the prescribed repair.

(7) A registered inspector appointed under subsection (1)(a) or (b) must not act, at the same time, as a contractor to carry out the prescribed repair for the same part of the building.

(8) If a registered inspector appointed under subsection (1)(a) or (b) becomes unwilling to act or unable, whether by reason of termination of appointment or for any other reason, to act, the person for whom the prescribed inspection or prescribed repair is to be, or is being, carried out must appoint another registered inspector to act instead of the original registered inspector.

(9) A registered inspector appointed under subsection (1)(a) is not allowed to nominate another registered inspector to act in his or her stead even though he or she is temporarily unable to act by reason of illness or absence from Hong Kong.

(10) If a registered inspector appointed under subsection (1)(b) is temporarily unable to act by reason of illness or absence from Hong Kong, he or she may nominate another registered inspector to temporarily act in his or her stead for the period of illness or absence.

(11) In this section, a reference to an inspection or repair of a building does not include an inspection or repair of the windows in the building.

**30E. Appointment and duties of qualified persons**

(1) Any person for whom a prescribed inspection or prescribed repair in respect of a window in a building is to be carried out must appoint a qualified person to carry out the prescribed inspection and, if a prescribed repair of the window is required, appoint the same qualified person to supervise the prescribed repair.

(2) If a qualified person appointed under subsection (1) is a natural person, the qualified person must carry out the prescribed inspection personally.

(3) If a qualified person appointed under subsection (1) is not a natural person, a representative of the qualified person as prescribed in the regulations must carry out the prescribed inspection personally.

(4) A qualified person appointed under subsection (1) must –

- (a) provide proper supervision of the carrying out of the prescribed repair;
- (b) ensure the repair materials to be used –
  - (i) are not defective and comply with this Ordinance; and
  - (ii) have been mixed, prepared, applied, used, erected, constructed, placed or fixed in the manner required for such materials under this Ordinance;
- (c) ensure the window, for which the qualified person is appointed to supervise the prescribed repair, is safe or has been rendered safe; and
- (d) comply generally with this Ordinance.

(5) If a qualified person appointed under subsection (1) is a registered general building contractor or registered minor works contractor,

the qualified person may also act as a contractor to carry out the prescribed repair.

(6) A qualified person appointed under subsection (1) must notify the Building Authority of any case of emergency that is revealed during the course of the prescribed inspection or supervision of the prescribed repair.

(7) If a qualified person appointed under subsection (1) becomes unwilling to act or unable, whether by reason of termination of appointment or for any other reason, to act, the person for whom the prescribed inspection or prescribed repair is to be, or is being, carried out must appoint another qualified person to act instead of the original qualified person.

(8) A qualified person appointed under subsection (1) is not allowed to nominate another qualified person to act in his or her stead even though he or she is temporarily unable to act by reason of illness or absence from Hong Kong.

**30F. Duties of registered general building contractors and registered minor works contractors**

A registered general building contractor or registered minor works contractor appointed to carry out a prescribed repair must ensure the part of the building for which the contractor is appointed to carry out the prescribed repair has been rendered safe.”.

**20. Recovery of costs of works by Building Authority**

(1) The heading of section 33 is amended by repealing “**of works**” and substituting “**and surcharge**”.

(2) Section 33(1) is amended by adding “any inspection, investigation or” before “works”.

(3) Section 33(1) is amended by adding “or to recover any surcharge” after “made by him”.

(4) Section 33(1) is amended by adding “and surcharge” before “due”.

(5) Section 33(1) is amended by adding “and surcharge” before “among”.

(6) Section 33(2)(a) is amended by adding “inspection, investigation or” before “works”.

(7) Section 33(4) is amended by adding “or surcharge” after “cost”.

(8) Section 33(5) is amended by adding “or surcharge” after “cost”.

(9) Section 33(6) is amended by adding “or surcharge” after “cost”.

(10) Section 33(8) is amended by adding “or surcharge” after “cost”.

(11) Section 33(9) is amended by adding “or surcharge” after “costs”.

(12) Section 33(9) is amended by adding “or surcharge” after “cost” where it twice appears.

## **21. Service of notices and orders**

(1) Section 35 is amended by renumbering it as section 35(1).

(2) Section 35 is amended by adding –

“(2) A certificate purporting to be signed by a person who states in that certificate that the person has effected service under subsection (1) is evidence of the facts stated in the certificate relating to that service.”.

## **22. Limitation of public liability**

Section 37(1) is amended by repealing “and notices” and substituting “, forms, reports, notices and other documents”.

## **23. Regulations**

(1) Section 38(1)(a) is amended by adding –

“(iib) registered inspectors;”.

(2) Section 38(1)(ib)(ii) is amended, in the Chinese text, by repealing “(i)” and substituting “(i)”.

- (3) Section 38(1) is amended by adding –
- “(kg) matters relating to a prescribed inspection or prescribed repair in respect of a building including –
- (i) the scope, standard and requirements of a prescribed inspection or prescribed repair in respect of a building;
  - (ii) the scope, standard and requirements of a prescribed inspection or prescribed repair in respect of a window in a building;
  - (iii) the requirements of the appointment of registered inspectors, qualified persons, registered general building contractors and registered minor works contractors for a prescribed inspection or prescribed repair;
  - (iv) the duties of registered inspectors, qualified persons, registered general building contractors and registered minor works contractors in relation to a prescribed inspection or prescribed repair;
  - (v) the prescription of any exemption for the purposes of section 30D(3)(a); and
  - (vi) the prescription of representatives of qualified persons for the purposes of section 30E(3);”.

## **24. Technical memorandum**

(1) Section 39A(1)(f) (as amended by section 26 of the amending Ordinance) is amended by adding “registered inspector,” after “geotechnical engineer,”.

(2) Section 39A(2) is amended, in the Chinese text, by repealing “發展局”.

(3) Section 39A(2) is amended, in the Chinese text, by repealing “該局” and substituting “立法會”.

(4) Section 39A(3) is amended, in the Chinese text, by repealing “發展局”.

(5) Section 39A(6) is amended, in the Chinese text, by repealing “發展局”.

(6) Section 39A(9) is amended, in the Chinese text, by repealing “發展局”.

(7) Section 39A(10) is amended, in the Chinese text, by repealing “發展局”.

## **25. Obstruction of owners' corporation**

(1) Section 39B(1) is amended by adding “, or a notice has been served on the owners' corporation under section 30B(3), (5) or (6) or 30C(3),” after “(5)”.

(2) Section 39B(1)(a) is amended by repealing “order; or” and substituting “order or notice;”.

(3) Section 39B(1)(b) is amended by repealing “order.” and substituting “order or notice; or”.

(4) Section 39B(1) is amended by adding –

“(c) refuse to contribute to the cost of the inspection or repair works that is required for the purpose of complying with the notice served under section 30B(3), (5) or (6) or 30C(3).”.

(5) Section 39B(2) is repealed and the following substituted –

“(2) In this section, “owners' corporation” (業主立案法團) means a corporation registered under section 8 of the Building Management Ordinance (Cap. 344).”.

**26. Building Authority shall not serve order under section 24 or notice under section 24C**

Section 39C(2) (as amended by section 27 of the amending Ordinance) is amended by adding “a registered inspector,” after “engineer,”.

**27. Offences**

(1) Section 40 (as amended by section 28 of the amending Ordinance) is amended by adding –

“(1BC) Any person who, without reasonable excuse, fails to comply with a notice served on the person under section 30B(3), (4), (5) or (6) commits an offence and is liable on conviction –

(a) to a fine at level 5 and to imprisonment for 1 year; 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.

(1BD) Any person who, without reasonable excuse, fails to comply with a notice served on the person under section 30C(3) or (4) commits an offence and is, subject to subsection (1BE), liable on conviction –

(a) to a fine at level 4 and to imprisonment for 3 months; and

(b) to a fine of \$2,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.

(1BE) Before taking court proceedings against a person for an offence under subsection (1BD), the Building Authority must serve on the person a penalty notice described in Schedule 7.

(1BF) Schedule 7 has effect in relation to a penalty notice.

(1BG) The Chief Executive in Council may, by notice published in the Gazette, amend Schedule 7.”.

(2) Section 40(2A) (as amended by section 28 of the amending Ordinance) is amended by repealing everything after “whom any” and before “works who” and substituting “prescribed inspection or building works or street works are being carried out and any authorized person, registered structural engineer, registered geotechnical engineer, registered inspector, qualified person, registered general building contractor, registered specialist contractor or registered minor works contractor directly concerned with any such inspection or”.

(3) Section 40(2A)(a) is amended by adding “inspection or” before “works”.

(4) Section 40(2A)(c) is amended by repealing “or notice” and substituting “, report, notice or other document”.

(5) Section 40(2A)(d) (as amended by section 28 of the amending Ordinance) is amended by adding “a prescribed inspection (other than a prescribed inspection in respect of a window in a building) or” before “building”.

(6) Section 40(2A)(e) (as amended by section 28 of the amending Ordinance) is amended by adding “a prescribed inspection in respect of a window in a building or” before “minor”.

(7) Section 40(2AAAC) (as amended by section 28 of the amending Ordinance) is amended by repealing “or 13(4)(d)” and substituting “, 7(2)(d), 13(4)(d) or 13(4)(e)”.

(8) Section 40 is amended by adding –

“(2AD) Any registered inspector who contravenes section 30D(3)(a), or any qualified person who contravenes section 30E(2), or any representative of a qualified person who contravenes section 30E(3), commits an offence and is liable on conviction to a fine of \$250,000.



(2AE) Any registered inspector who contravenes section 30D(4)(a), or any qualified person who contravenes section 30E(4)(a), commits an offence and is liable on conviction –

- (a) in the case of supervision of a prescribed repair (other than minor works), to a fine of \$250,000; or
- (b) in the case of supervision of a prescribed repair that is minor works, to a fine of \$150,000.

(2AF) Any registered inspector, qualified person, registered general building contractor or registered minor works contractor who contravenes section 30D(4)(c), 30E(4)(c) or 30F, as the case may be, commits an offence and is liable on conviction –

- (a) in the case of a prescribed repair (other than minor works), to a fine of \$1,000,000 and to imprisonment for 3 years; or
- (b) in the case of a prescribed repair that is minor works, to a fine of \$500,000 and to imprisonment for 18 months.”.

(9) Section 40(2B) (as amended by section 28 of the amending Ordinance) is amended by adding “a registered inspector, a qualified person,” after “geotechnical engineer,”.

(10) Section 40(2B) (as amended by section 28 of the amending Ordinance) is amended by adding “prescribed inspection,” after “concerned with any”.

(11) Section 40(2B)(a) is amended by adding “inspection or” before “works” where it twice appears.

(12) Section 40(2B)(b) is amended by adding “inspection or” before “works” where it twice appears.

(13) Section 40(2B)(c) (as amended by section 28 of the amending Ordinance) is amended by adding “a prescribed inspection (other than a prescribed inspection in respect of a window in a building), or” before “site”.

(14) Section 40(2B)(d) (as amended by section 28 of the amending Ordinance) is amended by adding “a prescribed inspection in respect of a window in a building, or” before “site”.

(15) Section 40 (as amended by section 28 of the amending Ordinance) is amended by adding –

“(2H) Any person other than a registered inspector who, without reasonable excuse, certifies a prescribed inspection (other than a prescribed inspection in respect of a window in a building), or certifies or supervises a prescribed repair (other than a prescribed repair in respect of a window in a building), in respect of a building commits an offence and is 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.

(2I) Any person other than a qualified person who, without reasonable excuse, certifies a prescribed inspection or certifies or supervises a prescribed repair, in respect of a window in a building commits an offence and is 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.”.

**28. Secretary to the Appeal Tribunal**

Section 46(2)(a) is amended by repealing “for Development”.

**29. Saving**

Section 54 is amended, in the English text, by repealing “the Second Schedule” and substituting “Schedule 2”.

**30. Validation**

Section 55(3) is amended, in the English text, by repealing “the Fourth Schedule” and substituting “Schedule 4”.

**31. Provisions of Buildings Ordinance 1935 to continue in operation**

The Second Schedule is amended, in the English text, by repealing “SECOND SCHEDULE” and substituting “SCHEDULE 2”.

**32. Form of warrant**

The Third Schedule is amended, in the English text, by repealing “THIRD SCHEDULE” and substituting “SCHEDULE 3”.

**33. Departments**

The Fourth Schedule is amended, in the English text, by repealing “FOURTH SCHEDULE” and substituting “SCHEDULE 4”.

**34. Scheduled areas**

The Fifth Schedule is amended, in the English text, by repealing “FIFTH SCHEDULE” and substituting “SCHEDULE 5”.

**35. Form of warrant**

The Sixth Schedule is amended, in the English text, by repealing “SIXTH SCHEDULE” and substituting “SCHEDULE 6”.

**36. Schedule 7 added**

The following is added –

## “SCHEDULE 7

[ss. 40(1BE),  
(1BF) &  
(1BG)]

## PENALTY NOTICE

1. A penalty notice under section 40(1BE) must be made in writing stating –

- (a) that the person served with the penalty notice is required to pay a fixed penalty of \$1,500 within 21 days after the date of the penalty notice;
- (b) if the person wishes to dispute liability for the offence under section 40(1BD), that the person must notify the Building Authority in writing within 21 days after the date of the penalty notice;
- (c) that the person is required to comply with the notice served under section 30C(3) or (4), and if the person’s failure to comply with the notice continues, the Building Authority may –
  - (i) serve on the person a further penalty notice after the expiry of the penalty notice that is being served; or
  - (ii) proceed to take court proceedings for the person’s failure to comply with the notice served under section 30C(3) or (4), and the person would be liable to the fine and imprisonment mentioned in section 40(1BD); and
- (d) any other related matters, including payment instructions for payment of the fixed penalty.

2. Section 35 applies to the service of a penalty notice under section 40(1BE).

3. If any person on whom a penalty notice has been served has failed to pay the fixed penalty of \$1,500, and has not notified the Building Authority that the person wishes to dispute liability, within 21 days after the date of the penalty notice, a magistrate may, on an application being made in the manner mentioned in section 4 of this Schedule, order the person to pay the fixed penalty of \$1,500, together with a sum of \$300 by way of costs, within 21 days after the date of service of notice of the order.

4. An application under section 3 of this Schedule –

- (a) may be made in the absence of the person on whom the penalty notice has been served; and
- (b) must be made in the name of the Secretary for Justice, who may appoint any person or class of persons to make the application.

5. Despite the Magistrate Ordinance (Cap. 227), in an application under section 3 of this Schedule, a magistrate may make an order under that section on production by the applicant to the magistrate of –

- (a) a copy of the penalty notice served under section 40(1BE); and
- (b) a certificate of service under section 35(2).

6. In an application under section 3 of this Schedule, a certificate stating –

- (a) that payment of the fixed penalty of \$1,500 had not been made before the date specified in the certificate; and
- (b) that the person specified in it had not, before the date specified in the certificate, notified the

Building Authority that the person wished to dispute liability for the offence under section 40(1BD),

and purporting to be signed by or for the Building Authority is to be admitted in evidence without further proof on its production to the magistrate and, unless there is evidence to the contrary, it is presumed that the certificate is so signed and the certificate is evidence of the facts stated in it.

7. If an order is made under section 3 of this Schedule –

- (a) the magistrate must cause notice of the order to be served on the person to whom it relates; and
- (b) the sending of the notice to the person by post at the person's address mentioned in the penalty notice constitutes good service.

8. If any person against whom an order under section 3 of this Schedule has been made fails to pay the fixed penalty and costs, the person is taken, for the purposes of section 68 of the Magistrates Ordinance (Cap. 227), to have failed to pay the sum adjudged to be paid by a conviction and is liable to be imprisoned under that section.

9. If there is evidence to show that a penalty notice served under section 40(1BE) has not come to the notice of the person to whom it relates before the date of the order made under section 3 of this Schedule, the magistrate may, on an application of which reasonable notice has been given to the Building Authority, rescind the order and –

- (a) if the person wishes to dispute liability for the offence under section 40(1BD), give leave to that effect; or

- (b) if that person does not wish to dispute liability, order that person to pay the fixed penalty of \$1,500 within 21 days after the date of the order.

10. An application for rescission of an order under section 9 of this Schedule may be made in person or by counsel or solicitor on behalf of the applicant and the magistrate, for the purpose of securing the attendance of witnesses and generally for conducting the proceedings, has all the powers of a magistrate hearing a complaint under the Magistrates Ordinance (Cap. 227).

11. An application for rescission of an order under section 9 of this Schedule must be made within 21 days after the date of service of notice of the order made under section 3 of this Schedule, but the magistrate may extend the period if he or she considers it appropriate to do so in the circumstances.

12. If a magistrate gives leave under section 9(a) of this Schedule, proceedings may be taken, despite section 26 of the Magistrates Ordinance (Cap. 227), within 6 months after the date on which the magistrate gives the leave.

13. A magistrate may for good cause, on an application by the Building Authority at any time, rescind any order for the payment of a fixed penalty and costs and any other order made in the same proceedings.

14. If any person against whom an order under section 9(b) of this Schedule has been made fails to pay the fixed penalty, the person is taken, for the purposes of section 68 of the Magistrates Ordinance (Cap. 227), to have failed to pay the sum adjudged to be paid by a conviction and is liable to be imprisoned under that section.

15. If any person on whom a penalty notice under section 40(1BE) has been served notifies the Building Authority that the person wishes to dispute liability or the person is given leave under section 9(a) of this Schedule, proceedings may be taken against that person, and a summons issued in those proceedings may be served on that person in accordance with section 8 of the Magistrates Ordinance (Cap. 227).

16. In proceedings under section 15 of this Schedule, if the court determines that the person is guilty of the offence of failing to comply with the notice served on the person under section 30C(3) or (4) without reasonable excuse, the person is liable to the fine and imprisonment under section 40(1BD).

17. After proceedings have been instituted but not less than 2 days (excluding any public holiday) before the day specified in the summons for the person's appearance, the person may pay the fixed penalty of \$1,500 and a sum of \$500 by way of costs with the production of the summons at any magistracy to terminate the proceedings.

18. If a person's failure to comply with the notice served on the person under section 30C(3) or (4) continues without reasonable excuse despite a penalty notice served under section 40(1BE), the Building Authority may –

- (a) serve on the person a further penalty notice after the expiry of the penalty notice that is being served; or
- (b) proceed to take court proceedings against the person under section 40(1BD).

19. The decision of the Building Authority to serve a penalty notice under section 18 of this Schedule is not subject to appeal under section 44.”.



## PART 3

### RELATED AMENDMENTS

#### Building (Administration) Regulations

#### 37. Fees

(1) Regulation 42 of the Building (Administration) Regulations (Cap. 123 sub. leg. A) is amended, in the Table of Fees, by adding –

“1A. (a) (i)	For each application for inclusion of name in each list of the inspectors’ register by a person referred to in section 3(7AA).	Person applying for inclusion in register.	\$900
	(ii) For each application for inclusion of name in each list of the inspectors’ register other than that referred to in subparagraph (i).	Person applying for inclusion in register.	\$3,850
	(iii) For each inclusion of name in each list of the inspectors’ register.	Successful applicant seeking inclusion in register.	\$1,360 for inclusion for a period of 5 years.
(b)	For each application for retention of name in each list of the inspectors’ register.	Registered inspector seeking retention in register.	\$1,180 for retention for a period of 5 years.
(c)	For each application for restoration of name in each list of the inspectors’ register.	Person seeking restoration to register.	\$1,370 for restoration for a period of 5 years.”.

(2) Regulation 42 is amended, in the Table of Fees, in item 10(b), in the English text, by repealing “pursuant to 36G(3)” where it twice appears and substituting “pursuant to section 36G(3)”.

(3) Regulation 42 is amended, in the Table of Fees, in item 11(a), in the English text, by repealing “pursuant to 36G(3)” where it twice appears and substituting “pursuant to section 36G(3)”.

(4) Regulation 42 is amended, in the Table of Fees, in item 11(b), in the English text, by repealing “pursuant to 36G(3)” where it twice appears and substituting “pursuant to section 36G(3)”.

**38. Duty of authorized person, registered structural engineer, registered geotechnical engineer, registered contractor, etc. to notify Building Authority of change of business address**

(1) The heading of regulation 45 is amended by repealing “geotechnical engineer” and substituting “geotechnical engineer, registered inspector”.

(2) Regulation 45 is amended by repealing “geotechnical engineer” and substituting “geotechnical engineer, registered inspector”.

**Building (Construction) Regulations**

**39. Interpretation**

Regulation 2 of the Building (Construction) Regulations (Cap. 123 sub. leg. B) is amended by repealing the definition of “external wall”.

**Building (Planning) Regulations**

**40. Interpretation**

Regulation 2(1) of the Building (Planning) Regulations (Cap. 123 sub. leg. F) is amended, in the definition of “external wall”, by adding “the whole, or any part, of” before “an”.

**Building (Refuse Storage and Material Recovery Chambers and Refuse Chutes) Regulations**

**41. Interpretation**

Regulation 2 of the Building (Refuse Storage and Material Recovery Chambers and Refuse Chutes) Regulations (Cap. 123 sub. leg. H) is amended, in

the definition of “external wall”, by adding “the whole, or any part, of” before “an”.

### **Building (Energy Efficiency) Regulation**

#### **42. Interpretation**

Regulation 2 of the Building (Energy Efficiency) Regulation (Cap. 123 sub. leg. M) is amended, in the definition of “external wall”, by adding “the whole, or any part, of” before “an”.

### **Specification of Public Offices**

#### **43. Schedule amended**

The Schedule to the Specification of Public Offices (Cap. 1 sub. leg. C) is amended by adding –

“Secretary for Development                      Buildings Ordinance (Cap. 123).”.

## **PART 4**

### **CONSEQUENTIAL AMENDMENTS**

#### **Buildings Ordinance (Application to the New Territories) Ordinance**

#### **44. Effect of certificate of exemption**

Section 7(1)(a) of the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121) (as amended by section 47 of the amending Ordinance) is amended by repealing “and 30” and substituting “, 30, 30A, 30B, 30C, 30D, 30E and 30F”.

### **Prevention of Bribery Ordinance**

#### **45. Public Bodies**

Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201) is amended by adding –

“114. Inspectors’ Registration Committee.”.

## **Railways Ordinance**

### **46. Interpretation**

Section 2 of the Railways Ordinance (Cap. 519) is amended, in the English text, in the definition of “building works”, by repealing “the Fifth Schedule” and substituting “Schedule 5”.

## **Explanatory Memorandum**

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

- (a) provide for matters relating to the regular inspections of buildings and the windows in buildings, and the associated repairs, to prevent the buildings and windows from becoming unsafe;
- (b) provide for matters relating to the appointment, control and duties of persons who are to deal with those inspections and repairs;
- (c) introduce two categories of persons, that is, registered inspectors and qualified persons, who are to deal with those inspections and repairs;
- (d) repeal certain existing provisions in the Ordinance that provide the decision of the Court of First Instance on appeal is final; and
- (e) make some related, consequential and other minor amendments.

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 amends the long title of the Ordinance to widen the scope of the Ordinance to provide for the regular inspections of buildings and the associated repairs to prevent the buildings from becoming unsafe.
5. Clause 4 adds new definitions to section 2(1) of the Ordinance as a result of the proposed amendments to the Ordinance. The new definitions include “common parts”, “external wall”, “prescribed inspection”, “prescribed repair”, “qualified person” and “registered inspector”.
6. Clause 5 amends the heading of Part I of the Ordinance to include “registered inspectors”.
7. Clause 6 amends section 3 of the Ordinance. In particular –
  - (a) it adds the new subsections (3B) and (3C) to introduce a new register to be kept by the Building Authority under the Ordinance, that is, the inspectors’ register of all persons who are qualified to perform the duties and functions of inspectors in accordance with the Ordinance;
  - (b) it adds the new subsection (5CB) to introduce an Inspectors Registration Committee to deal with the registration of inspectors, and the new subsection (5GB) to provide for the quorum of a meeting of an Inspectors Registration Committee; and
  - (c) it amends certain existing provisions in that section to provide for the matters relating to the inclusion, retention and restoration of persons in the inspectors’ register.
8. Clause 7 amends section 5 of the Ordinance to provide for the appointment of a disciplinary board to conduct hearing of disciplinary proceedings against registered inspectors.

9. Clause 8 amends section 5A of the Ordinance to provide for the appointment and membership of the Registered Inspectors' Disciplinary Board Panel.
10. Clause 9 clarifies the use of the term "Secretary" in section 5AA in the English text of the Ordinance.
11. Clause 10 amends section 7 of the Ordinance. In particular –
  - (a) it amends subsections (1) and (1A) to include new grounds on which the Building Authority may refer the conduct of an authorized person, a registered structural engineer, a registered geotechnical engineer or a registered inspector in cases relating to prescribed inspections or prescribed repairs to the disciplinary board; and
  - (b) it amends subsection (2) to empower a disciplinary board to make orders including removing a person's name from the inspectors' register, and prohibiting a person from performing any duties in relation to a prescribed inspection or prescribed repair as a result of the person's conducts referred to in subsection (1A).
12. Clause 11 amends section 9A of the Ordinance. In particular –
  - (a) it amends subsection (1) to clarify the time period within which an aggrieved person may appeal to the Court of First Instance against a decision of a Registration Committee; and
  - (b) it repeals subsection (4) which provides that the decision of a judge of the Court of First Instance is final.
13. Clause 12 clarifies the use of the term "Secretary" in section 11AA in the English text of the Ordinance.
14. Clause 13 amends section 13 of the Ordinance. In particular –
  - (a) it amends subsections (1) and (2) to include new grounds on which the Building Authority may refer the conduct of

a contractor in cases relating to prescribed inspections or prescribed repairs to the disciplinary board;

- (b) it amends subsection (4) to empower a disciplinary board to make orders including prohibiting a contractor from performing any duties in relation to a prescribed inspection or prescribed repair as a result of the contractor's conduct referred to in subsection (2);
- (c) it amends subsection (7) to clarify the time period within which an aggrieved person may appeal to the Court of First Instance against an order of the disciplinary board; and
- (d) it repeals subsection (10) which provides that the decision of a judge of the Court of First Instance is final.

15. Clause 14 amends section 13A of the Ordinance. In particular –

- (a) it amends subsection (1) to clarify the time period within which a person may appeal to the Court of First Instance against a decision of the Building Authority; and
- (b) it repeals subsection (4) which provides that the decision of a judge of the Court of First Instance is final.

16. Clauses 15 and 17 contain certain minor textual amendments to sections 17(1) and 23(1)(b) of the Ordinance.

17. Clauses 16 and 18 contain certain textual amendments to update the style of the Ordinance.

18. Clause 19 adds a new Part, that is, Part IIA, to the Ordinance to provide for the regular inspections and repairs of buildings. In particular –

- (a) a new section 30A is added to provide the definition of “projection” under that Part, and to make clear that that Part does not apply to a domestic building not exceeding 3 storeys in height;
- (b) a new section 30B is added in which –

- (i) subsections (3), (4), (5) and (6) empower the Building Authority to serve notice in writing on any owner of a building aged 30 years or above requiring a prescribed inspection (as defined in section 2(1) of the Ordinance) and, if necessary, a prescribed repair (as defined in section 2(1) of the Ordinance) of the common parts, external walls, projections and signboards of the building be carried out within a specified time;
  - (ii) subsection (7) sets out the matters to be specified in the notice;
  - (iii) subsection (8) provides for the obligation to carry out a prescribed repair by an owner;
  - (iv) subsections (10) and (11) empower the Building Authority to carry out an inspection and repair works and recover the cost incurred in case of an owner's failure to comply with the notice served under subsection (3), (4), (5) or (6);
  - (v) subsection (12) makes it clear that a notice under subsection (3), (4), (5) or (6) has been complied with, a fresh notice in respect of the same part of the building must not be served under that subsection before the expiry of 10 years after the date of the preceding notice;
  - (vi) subsection (13) makes it clear that an inspection or repair in relation to a building referred to in that section does not include an inspection or repair of the windows in the building;
- (c) a new section 30C is added in which –



- (i) subsections (3) and (4) empower the Building Authority to serve notice in writing on any owner of a building aged 10 years or above requiring a prescribed inspection (as defined in section 2(1) of the Ordinance) and, if necessary, a prescribed repair (as defined in section 2(1) of the Ordinance) of the windows in the building to be carried out within a specified time;
  - (ii) subsection (5) sets out the matters to be specified in the notice;
  - (iii) subsection (6) provides for the obligation to carry out a prescribed repair by an owner;
  - (iv) subsections (8) and (9) empower the Building Authority to carry out an inspection and repair works and recover the cost incurred in case of an owner's failure to comply with the notice served under subsection (3) or (4);
  - (v) subsection (10) makes it clear that after a notice under subsection (3) or (4) has been complied with, a fresh notice in respect of the same window must not be served under that subsection before the expiry of 5 years after the date of the preceding notice;
- (d) a new section 30D is added to provide for the appointment and duties of registered inspectors in relation to the carrying out of a prescribed inspection and supervision of a prescribed repair in respect of a building, in which –
- (i) subsection (2) provides that the registered inspector appointed to carry out a prescribed inspection may be appointed to supervise a

- prescribed repair that is required after the inspection;
- (ii) subsection (7) provides that a registered inspector who carries out a prescribed inspection or supervise a prescribed repair must not also act as a contractor to carry out the prescribed repair for the same part of the building;
- (e) a new section 30E is added to provide for the appointment and duties of qualified persons in relation to the carrying out of a prescribed inspection and supervisions of a prescribed repair in respect of windows in a building, in which –
  - (i) subsection (1) provides that a qualified person appointed to carry out a prescribed inspection must also be the same person appointed to supervise a prescribed repair that is required after the inspection;
  - (ii) subsection (5) provides that a qualified person who carries out a prescribed inspection or supervises a prescribed repair may also act as a contractor to carry out the prescribed repair; and
- (f) a new section 30F is added to provide for the duties of registered general building contractors and registered minor works contractors in relation to the carrying out of a prescribed repair.

19. Clause 20 amends section 33 of the Ordinance to include recovery of the cost of inspection and investigation incurred by, and the surcharge due to, the Building Authority.

20. Clause 21 amends section 35 of the Ordinance to state the effect of a certificate of service.
21. Clause 22 amends section 37(1) of the Ordinance to include further types of documents the accuracy of which the Building Authority has no obligation to ascertain under that section.
22. Clause 23 amends section 38(1) of the Ordinance to enlarge the scope of the regulation making powers of the Secretary for Development to provide for matters relating to a prescribed inspection and prescribed repair.
23. Clause 24 makes certain textual amendments to section 39A in the Chinese text of the Ordinance.
24. Clause 25 amends section 39B of the Ordinance to provide for non-contribution of the cost for compliance of the new section 30B(3), (5) or (6) or 30C(3) by an owner as an obstruction to the owners' corporation.
25. Clause 26 amends section 39C(2) of the Ordinance to include registered inspectors among the groups of people who may submit or deliver prescribed plans, certificates, notices and other documents to the Building Authority in relation to a scheme under which demolition orders will not be made in respect of unauthorized building or building works.
26. Clause 27 amends section 40 of the Ordinance to provide for the penalties for the offences relating to non-compliance of the notices served under the new sections 30B and 30C, and the offences relating to the duties in relation to prescribed inspections and prescribed repairs under the new sections 30D, 30E and 30F.
27. Clause 28 contains a minor amendment to maintain internal consistency of the use of the term "Secretary" in section 46(2)(a) of the Ordinance.
28. Clauses 29 to 35 contain certain textual amendments to update the style of the Ordinance.
29. Clause 36 adds a new Schedule 7 to the Ordinance to include provisions relating to a penalty notice that is served under the new section 40(1BE) of the

Ordinance in the case of an owner failing to comply with the new section 30C of the Ordinance.

### Part 3 of the Bill

30. Clauses 37, 38, 39, 40, 41, 42 and 43 provide for certain related amendments. In particular –

- (a) the Building (Administration) Regulations (Cap. 123 sub. leg. A) is amended to include the fees for inclusion, retention and restoration of a name in the inspectors' register and certain minor textual amendments (clause 37) and to impose a duty on the registered inspectors to notify the Building Authority of any change of business address (clause 38);
- (b) the Building (Construction) Regulations (Cap. 123 sub. leg. B), the Building (Planning) Regulations (Cap. 123 sub. leg. F), the Building (Refuse Storage and Material Recovery Chambers and Refuse Chutes) Regulations (Cap. 123 sub. leg. H) and the Building (Energy Efficiency) Regulation (Cap. 123 sub. leg. M) are amended in their definitions of “external wall” to correspond to the meaning of the term after the definition of “external wall” is added to the Ordinance (clauses 39, 40, 41 and 42); and
- (c) the Specification of Public Offices (Cap. 1 sub. leg. C) is amended to include Secretary for Development under the Buildings Ordinance in the Schedule (clause 43).

### Part 4 of the Bill

31. Clauses 44, 45 and 46 contain certain consequential amendments to the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121),

the Prevention of Bribery Ordinance (Cap. 201) and the Railways Ordinance (Cap. 519).

**Operational Procedures of  
Mandatory Building Inspection Scheme**

The operational procedures of the MBIS are outlined as follows –

- (a) The BA will, with the advice of a selection panel<sup>1</sup>, select 2 000 private buildings every year. The list of buildings will be gazetted.
- (b) For each building, the BA will serve statutory notices on the concerned OC (if any) and individual owners, requiring inspection and repair of the common parts, external walls and projections of the building within a specified timeframe.
- (c) The OC/owners shall appoint an RI to carry out the inspection. The RI shall carry out the inspection personally and in accordance with the procedures and requirements under the BO and the relevant regulations thereunder in relation to building inspection and repair. Upon completion of the inspection, the RI shall submit an inspection report, together with a repair proposal if necessary, to the BA.
- (d) Based on the RI's repair proposal, the OC/owners shall, depending on the scale of the repair works, appoint an RGBC or an RMWC to carry out the repair works in accordance with the procedures and requirements under the BO and the relevant regulations thereunder in relation to building inspection and repair. The OC/owners shall also appoint the same or another RI to supervise the repair works. To avoid conflict of interest, the RI appointed to supervise the repair works shall not act as the contractor for the repair works.
- (e) Upon completion of the repair works, the RI shall submit a completion report and a certificate of satisfactory completion of repair works to the BA.

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<sup>1</sup> A selection panel will comprise representatives from (a) professional bodies such as the Hong Kong Institute of Architects, Hong Kong Institution of Engineers and Hong Kong Institute of Surveyors; (b) relevant non-government organisations such as the HKHS and Urban Renewal Authority; (c) property management associations; (d) District Council Members; and (e) relevant Government departments including the BD and Home Affairs Department.

**Operational Procedures of  
Mandatory Window Inspection Scheme**

The operational procedures of the MWIS are outlined as follows –

- (a) The BA will, with the advice of a selection panel<sup>1</sup>, select 5 800 private buildings every year. The list of buildings will be gazetted.
- (b) For each building, the BA will serve statutory notices on the concerned OC (if any) and individual owners, requiring inspection and repair of windows in common parts as well as individual premises of the building within a specified timeframe.
- (c) The OC/owners shall appoint a QP to carry out the inspection. The QP shall carry out the inspection personally and in accordance with the procedures and requirements under the BO and the relevant regulations thereunder in relation to window inspection and repair.
- (d) Where the inspection reveals that repair works are necessary to render the windows safe, the OC/owners shall appoint an RGBC or an RMWC to carry out the repair works in accordance with the procedures and requirements under the BO and the relevant regulations thereunder in relation to window inspection and repair. The QP shall provide continuous supervision of the repair works. To streamline the procedures, the QP may also act as contractor for the repair work, provided that the QP is also an RGBC or RMWC of the relevant discipline.
- (e) Upon completion of the repair works, the QP shall submit certificates of inspection and satisfactory completion of repair works to the BA.

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<sup>1</sup> The selection panel will be the same as that for the MBIS.

## Annex D

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
	Long title		30/06/1997

To provide for the planning, design and construction of buildings and associated works; to make provision for the rendering safe of dangerous buildings and land; and to make provision for matters connected therewith.

(Replaced 72 of 1980 s. 2)

[1 June 1956] *G.N.A. 45 of 1956*

(Originally 68 of 1955)

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
Section 2	Interpretation	L.N. 225 of 2008	15/12/2008

(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-



- (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 minor works commenced under the simplified requirements), material divergence or deviation from any plan approved by the Building Authority under this Ordinance;
- (c) in the case of minor works commenced under the simplified requirements, material divergence or deviation from any plan required to be submitted to the Building Authority under the simplified requirements; and
- (d) in the case of minor works commenced under the simplified requirements, failure to submit to the Building Authority any certificate required to be submitted under the simplified requirements; (Replaced 20 of 2008 s. 3)

"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)

"electronic record" (電子紀錄) has the same meaning as in section 2(1) of the Electronic Transactions Ordinance (Cap 553); (Added 20 of 2008 s. 3)

"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)

"minor works" (小型工程) means building works designated in the regulations as minor works for the purposes of this definition; (Added 20 of 2008 s. 3)

"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 building professional" (訂明建築專業人士) means an authorized person, a registered structural engineer or a registered geotechnical engineer; (Added 20 of 2008 s. 3)

"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)

"prescribed registered contractor" (訂明註冊承建商) means a registered general building contractor, registered specialist contractor or registered minor works contractor; (Added 20 of 2008 s. 3)

"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 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; (Added 20 of 2008 s. 3)

"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)

"Secretary" (局長) means the Secretary for Development; (Added 20 of 2008 s. 3)

"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)

"simplified requirements" (簡化規定) means any requirements prescribed in the regulations as simplified requirements for the purposes of this definition; (Added 20 of 2008 s. 3)

"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 building works or street works designated as specialized works under section 2A; (Replaced 20 of 2008 s. 3)

"specified" (指明), in relation to a form, means specified by the Building Authority under section 22(4); (Added 68 of 1993 s. 2)

"specified document" (指明文件) means-

(a) a document made, issued or given, or a plan submitted to or approved by the Building

Authority, under or for the purposes of this Ordinance or the Buildings Ordinance 1935 (18 of 1935); or

(b) any part of the document or plan; (Added 20 of 2008 s. 3)

"specified document record" (指明文件紀錄) means-

(a) a record of a specified document made under section 36C(a);

(b) an electronic record made under section 36C(b); or

(c) a copy of an electronic record made under section 36C(c); (Added 20 of 2008 s. 3)

"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)

(1A) Where this Ordinance refers to a person's certifying minor works commenced under the simplified requirements, it means the certification by the person of anything that is required by the regulations to be certified in respect of such minor works. (Added 20 of 2008 s. 3)

(1B) For the purposes of this Ordinance, minor works that are commenced or carried out without the approval and consent of the Building Authority under section 14(1) are to be regarded as minor works commenced under the simplified requirements if-

(a) a prescribed building professional or a prescribed registered contractor has been appointed in respect of the works; or

(b) the works are commenced or carried out by a prescribed registered contractor. (Added 20 of 2008 s. 3)

(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
Section 3	Registers of authorized persons, structural engineers and geotechnical engineers	L.N. 225 of 2008	15/12/2008

## 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 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). (Replaced 20 of 2008 s. 5)

(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)(e); (Amended 20 of 2008 s. 5)
- (c) the public officer nominated under subsection (5CA)(f); and (Amended 20 of 2008 s. 5)
- (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; and (Added 54 of 1996 s. 4. Amended 15 of 2004 s. 4; 20 of 2008 s. 5)
- (c) for a Geotechnical Engineers Registration Committee under subsection (5CA)(a), a registered professional engineer nominated under that subsection. (Added 15 of 2004 s. 4. Amended 20 of 2008 s. 5)
- (d) (Repealed 20 of 2008 s. 5)

(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; (Replaced 54 of 1996 s. 4. Amended 20 of 2008 s. 5)
- (c) accompanied by the appropriate prescribed fee; and (Added 77 of 1994 s. 3. Amended 20 of 2008 s. 5)
- (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) 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. (Replaced 20 of 2008 s. 5)

(11AA) The removal of a name under subsection (11A)(a) becomes effective immediately after the date of expiry of the existing registration. (Added 20 of 2008 s. 5)

(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. (Added 20 of 2008 s. 5)

(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)

(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 section; and
- (b) the particulars of a person so registered. (Added 20 of 2008 s. 5)

(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 person registered under this section. (Added 20 of 2008 s. 5)

(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 5	Appointment and powers of disciplinary board	L.N. 225 of 2008	15/12/2008

**Remarks:**

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) For the purposes of section 7, the Secretary 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; 20 of 2008 s. 8)

(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 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; 20 of 2008 s. 8)

(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
Section 5A	Authorized Persons', Registered Structural Engineers' and Registered Geotechnical Engineers' Disciplinary Board Panel	L.N. 171 of 2004	31/12/2005

(1) There shall be an Authorized Persons', Registered Structural Engineers' and Registered Geotechnical Engineers' Disciplinary Board Panel, which shall be appointed by the Chief Executive. (Amended 62 of 2000 s. 3; 15 of 2004 s. 7)

(2) The Authorized Persons', Registered Structural Engineers' and Registered Geotechnical Engineers' Disciplinary Board Panel consists of not more than 25 members, of whom not less than 1 and not more than- (Amended 15 of 2004 s. 7)

- (a) 5 are authorized persons in the list of architects;
- (b) 5 are authorized persons in the list of engineers;
- (c) 5 are authorized persons in the list of surveyors; (Amended 15 of 2004 s. 7)
- (d) 5 are registered structural engineers; and (Replaced 54 of 1996 s. 7. Amended 15 of

2004 s. 7)

(e) 5 are registered geotechnical engineers. (Added 15 of 2004 s. 7)

(3) A person must not be appointed to be a member of the Panel referred to in subsection (2) unless he has been recommended for the appointment by the Building Authority after consultation with the Architects Registration Board, the Engineers Registration Board or the Surveyors Registration Board respectively, as appropriate. (Replaced 54 of 1996 s. 7)

(4) Members of the panel shall hold office for 3 years but shall be eligible for reappointment.

(Added 52 of 1974 s. 4)

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section 5AA	Secretary to the disciplinary board	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) There shall be a Secretary to the disciplinary board for the purpose of providing administrative services to a disciplinary board appointed under section 5.

(2) The Secretary to the disciplinary board shall be-

(a) appointed by the Secretary for Development; (Amended L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007)

(b) a public officer; and

(c) a person who is not a member of the disciplinary board appointed under section 5.

(Added 36 of 1997 s. 3)

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)

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
Section 9A	Appeals from Registration Committees	L.N. 172 of 1998	01/04/1998

Remarks:

1. This section has commenced operation since 3 January 1997 only in so far as it relates to matters arising from the applications for inclusion in the relevant register as authorized persons or registered structural engineers.
2. Adaptation amendments retroactively made - see 25 of 1998 s. 2.
3. This section has commenced operation on 7 November 1997 only in so far as it is in respect of general building contractors.
4. Remaining provisions of this section have commenced operation on 1 April 1998.

(1) A person who is aggrieved by a decision of a Registration Committee under this Part may appeal to a judge of the Court of First Instance.

(2) On an appeal the judge may confirm, reverse or vary the order of the Registration Committee.

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

(4) The decision of the judge is final.

(Added 54 of 1996 s. 10. Amended 25 of 1998 s. 2)

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section 11AA	Secretary to the disciplinary board	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) There shall be a Secretary to the disciplinary board for the purpose of providing administrative services to a disciplinary board appointed under section 11.

(2) The Secretary to the disciplinary board shall be-

- (a) appointed by the Secretary for Development; (Amended L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007)
- (b) a public officer; and
- (c) a person who is not a member of the disciplinary board appointed under section 11.

(Added 36 of 1997 s. 5)

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section 13	Disciplinary proceedings for contractors	L.N. 171 of 2004	31/12/2004
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Remarks:

(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)

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section 13A	Appeal against Building Authority's decision	L.N. 172 of 1998	01/04/1998
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Remarks:

1. This section has commenced operation since 3 January 1997 only in so far as it relates to matters arising from the applications for inclusion in the relevant register as authorized persons or registered structural engineers - see L.N. 6 of 1997.
2. Adaptation amendments retroactively made - see 25 of 1998 s. 2.
3. This section has commenced operation since 7 November 1997 only in so far as it relates to registered general building contractors - see L.N. 532 of 1997.
4. Remaining provisions of this section have commenced operation since 1 April 1998

(1) An applicant for registration, renewal of registration or restoration of his name to a register who is dissatisfied with a decision of the Building Authority may appeal to a judge of the Court of First Instance.

(2) On an appeal the judge may confirm, reverse or vary the decision of the Building Authority.

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

(4) The decision of the judge is final.

(Added 54 of 1996 s. 14. Amended 25 of 1998 s. 2)

(Part I replaced 44 of 1959 s. 3)

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section 17	Conditions may be imposed in certain cases	L.N. 171 of 2004	31/12/2004
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(1) Where an application is made to the Building Authority in respect of any of the building works or street works set out in Column A, he may take such action by way of imposing conditions and requirements by orders in writing, and refusing his approval of plans or his consent to commence

the building works or street works as is set out in Column B opposite the particular item in Column A.

A	B
1. Approval of plans of building works in connexion with an existing building which would result in a new building.	1. For the purpose of making such new building comply with the standard of structural stability and public health established from time to time by regulations-
	<ul style="list-style-type: none"> <li>(a) require plans to be submitted showing additional building works, and refuse approval of the plans already submitted pending his approval of such plans together with the plans required to be submitted under this section; and</li> <li>(b) require to be carried out the building works shown on such approved additional plans or such other building works as he may consider necessary.</li> </ul>
2. Approval of plans of building works for the erection of a new building to which access is to be obtained by means of an existing access road which does not comply with the regulations.	2. For the purpose of making such access road comply with the regulations- <ul style="list-style-type: none"> <li>(a) require plans to be submitted showing the necessary street works; and</li> <li>(b) require street works to be carried out in accordance with an approved plan.</li> </ul>
3. Approval of plans of street works where in the opinion of the Building Authority- <ul style="list-style-type: none"> <li>(a) the bearing capacity of the ground forming the foundation of the carriage-way is such that the thicknesses of materials to be used in the surfacing thereof, as prescribed by regulations, are inadequate; or</li> <li>(b) that the volume of traffic which may be expected to use such street is such that a carriage-way constructed in accordance with the regulations will be inadequate.</li> </ul>	3. Require such carriage-way to be constructed in such manner as he may prescribe.
4. Approval of plans of building works or street works involving the construction, formation, laying out or any alteration of any access to or opening to or from any street.	4. Require such access or opening to be constructed and sited in such manner as in his opinion will ensure the safety and convenience of traffic and pedestrians using or expected to use such street.
5. Consent to commence building works to be carried out on land- <ul style="list-style-type: none"> <li>(a) abutting or fronting on a new private street; or</li> <li>(b) to which access is to be obtained by means of a new access road or an access road to which alterations are to be made.</li> </ul>	5. For the purpose of making such private streets or access roads comply with the regulations- <ul style="list-style-type: none"> <li>(a) require plans of street works to be submitted and may refuse his consent to the commencement of the building works until he has approved such plans; and</li> <li>(b) require street works to be carried out in accordance with an approved plan.</li> </ul>

6. Approval of plans showing, or consent to commence, building works involving-
- (a) the structural use of materials; (Replaced 57 of 1987 s. 4)
  - (b) site formation works, excavation works, piling works, foundation works or any other structural works; or (Replaced 57 of 1987 s. 4. Amended 39 of 2000 s. 3)
  - (c) ground investigation in the scheduled areas. (Replaced 41 of 1982 s. 5. Amended 52 of 1990 s. 4)

7. Approval of plans showing, or consent to commence, site formation works, piling works, excavation works or foundation works.

(2) (Repealed 15 of 2004 s. 19)

6. Require and prescribe conditions for-
- (a) maximum loads and stresses;
  - (b) tests of materials;
  - (c) the use of materials;
  - (ca) instrumentation for checking design assumptions and monitoring the effect of the works;
  - (d) standards of workmanship;
  - (e) qualified supervision;
  - (f) the sequence of works in respect of works in area number 1 of the scheduled areas; and (Amended 52 of 1990 s. 4)
  - (g) a performance review in respect of-
    - (i) works in the scheduled areas; or
    - (ii) works in sites outside the scheduled areas where-
      - (A) the Building Authority considers that the geological conditions need to be verified during construction and before an application for occupation permit is made under section 21;
      - (B) the groundwater regime will be adversely affected by the works; or
      - (C) the Building Authority is of the opinion that the works incorporate unconventional designs, the performance of which has not been fully demonstrated by local case histories, tests and investigations. (Replaced 39 of 2000 s. 3)

7. Prescribe conditions subject to which the works may be carried out, being conditions that the Building Authority considers necessary to prevent a collapse, whether total or partial, or the likelihood of such a collapse, of any adjoining or other building, street or land or to prevent any adjoining or other building, street or land becoming so dangerous, or the likelihood of any such building, street or land becoming so dangerous, that it will collapse or be likely to collapse, either totally or partially. (Added 27 of 1964 s. 3. Amended 40 of 1965 s. 2; 23 of 1969 s. 4; 72 of 1980 s. 5)  
(Added 44 of 1959 s. 4)



Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
Section 18	Authority to erect shoring in certain cases	29 of 1998	01/07/1997

Remarks:

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

(1) Without prejudice to any other provision of this Ordinance and subject to subsection (2), where-

- (a) for the purpose of satisfying the Building Authority that such precautions as are referred to in section 16(5) have been taken; or
- (b) for the purpose of complying with a condition prescribed by the Building Authority under section 17,

the erection of shoring for any building is necessary, the person whose building works or proposed building works necessitate the erection of the shoring is hereby authorized to erect, or cause to be erected, such shoring as may be necessary, and the same may be affixed-

- (i) in or to or around the building for which it is erected, or otherwise in relation to that building as the circumstances require; or
- (ii) with the permission of the Director of Buildings, or an officer of the Buildings Department authorized in that behalf by the Director of Buildings either by name or by reference to an office, granted under subsection (3) and in accordance with such permission, in or over or upon any street, whether or not the street is on land held under lease from the Government, (Amended L.N. 94 of 1986; L.N. 291 of 1993; 29 of 1998 s. 105)

and maintained for such time as may be necessary and thereafter removed. (Amended 46 of 1968 s. 2; L.N. 76 of 1982)

(2) Nothing in subsection (1) authorizes-

- (a) the affixing of shoring in or over or upon any land, not being a street, unless the land is owned by either the owner of the building for which the shoring is erected or the person whose building works or proposed building works necessitate the erection of the shoring; or
- (b) the affixing of shoring in or to or around, or otherwise in relation to, any building other than the building for which the shoring is erected.

(3) Whenever it is necessary, for either of the purposes specified in subsection (1), to erect shoring in or over or upon a street, whether or not the street is on land held under lease from the Government, the Director of Buildings or an officer of the Buildings Department authorized in that behalf by the Director of Buildings, either by name or by reference to an office, may, if he thinks fit, permit the erection of such shoring, subject to such conditions as he considers necessary. (Amended L.N. 76 of 1982; L.N. 94 of 1986; L.N. 291 of 1993; 29 of 1998 s. 105)

(4) Any damage to a building for which shoring is erected pursuant to subsection (1) caused by or resulting from the erection, maintenance or dismantling of the shoring shall be made good as soon as practicable by the person whose building works or proposed building works necessitated the erection, maintenance or dismantling of the shoring. (Amended 46 of 1968 s. 2)

(5) (a) Any occupier of a building for which shoring is erected pursuant to subsection (1), and any other person whatsoever, who suffers any loss or damage by reason of the erection, maintenance or dismantling of the shoring shall be entitled to recover compensation from the person whose building works or proposed building works necessitated the erection, maintenance or dismantling of the shoring. (Amended 46 of 1968 s. 2)

(b) Where any dispute arises as to-

- (i) whether compensation is payable under this subsection,
- (ii) the amount of any such compensation, or
- (iii) the person to whom it is payable,

the same shall be determined in accordance with the provisions of section 18A. (Amended 46 of 1968 s. 2)

(6) (a) Any person authorized by the Building Authority in writing may enter any building

specified in such authorization for the purpose of ascertaining what shoring may be required for the building for either of the purposes specified in subsection (1) or of ascertaining the manner in which shoring for the building may be affixed or for the purpose of erecting shoring for the building pursuant to subsection (1) or of maintaining such shoring in good order or of inspecting the same. (Amended 68 of 1993 s. 9)

- (b) An authorization granted to any person under paragraph (a) shall be deemed also to authorize any servant or agent of that person, and such an agent's servants, to enter the building for the like purpose.
- (c) If a magistrate is satisfied by evidence on oath that the entry to a building of any person authorized to enter the same by or under paragraph (a) or (b) has been obstructed, he may upon application by or on behalf of the person authorized to enter such building under paragraph (a) issue a warrant in the form in the Third Schedule authorizing-
  - (i) each and every person authorized prior to the issue of the warrant to enter such building by or under paragraph (a) or (b); and
  - (ii) any police officer of or above the rank of inspector and any other police officer acting under his direction,
 to enter such building on such occasion or occasions, and at such time or times, as may be necessary for the purpose for which the authorization under paragraph (a) was granted, and in the execution of such warrant any such police officer may use such force as may be necessary. (Added 40 of 1965 s. 3)
- (d) A copy, in the English language and in the Chinese language, of any warrant issued under paragraph (c) shall be posted in a conspicuous position on the building to which it relates. (Added 40 of 1965 s. 3)

(Added 27 of 1964 s. 4)

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
Section 23	Building works, etc. to cease on order of Building Authority	L.N. 172 of 1998	01/04/1998

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)

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section 28C	Magistrate's warrant		30/06/1997
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(1) If a magistrate is satisfied by evidence on oath that the entry upon any land or the carrying out or maintenance of any groundwater drainage works by any person authorized under section 28B(4) has been obstructed, he may upon application by or on behalf of the person so authorized issue a warrant in the form in the Sixth Schedule authorizing-

- (a) every person so authorized before the issue of the warrant to enter upon the land on such occasions and at such times as may be necessary for the purpose for which the authorization under section 28B(4) was granted and to carry out or maintain any such authorized works; and
- (b) any police officer of or above the rank of inspector and any other police officer acting under his direction to enter upon the land in company with, and for the purpose of preventing the obstruction of, any person authorized under paragraph (a), and in the execution of the warrant any such police officer may use such force as may be necessary.

(2) A copy, in the English language and in the Chinese language, of any warrant issued under subsection (1) shall be posted in a conspicuous position on the land to which it relates.

(Added 41 of 1982 s. 8)

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section 33	Recovery of costs of works by Building Authority	62 of 2000	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 2000 s. 3

(1) In any case where under this Ordinance the Building Authority is authorized to recover the cost of works carried out by him or caused to be carried out by him or to recover the costs of services provided by him or caused to be provided by him or to recover the cost of any abortive visit made by

him, he may certify under his hand the cost due and names of the persons liable therefor, and may by such certificate apportion such cost among such persons. (Amended 57 of 1987 s. 6; 42 of 1992 s. 6)

(2) Such cost may include-

- (a) the cost of materials supplied by the Building Authority for the purpose of carrying out such works; and
- (b) supervision charges.

(3) A copy of the Building Authority's certificate shall be served upon each person affected thereby.

(4) Interest at the rate of 10 per cent per annum from the expiry of 1 month from the date of such service shall be recoverable as part of such cost.

(5) The payment of such cost by any person shall be without prejudice to his right to recover the same from any person liable to pay the expenses of the repair of, or of other building works in connexion with, any building or land. (Amended 72 of 1980 s. 11)

(6) Without prejudice to any other remedy of the Building Authority for the recovery of such cost, the same may be recovered as a debt due to the Government. (Replaced 13 of 1966 Schedule. Amended 62 of 2000 s. 3)

(7) The writ of summons in connexion with such action shall be taken to have been duly served if it appears, to the satisfaction of the Court, that the writ was left at the defendant's residence or place of business, or in case the same is unknown, that it was left at the building or on the land in respect of which the claim is made. (Amended 72 of 1980 s. 11)

(8) A certificate purporting to be under the hand of the Building Authority, made under the provisions of subsection (1), and setting forth that the cost claimed is due or payable to the Building Authority and that the person sued is liable for the payment thereof, and specifying the nature and particulars of the claim shall be prima facie evidence of the facts certified therein and of the signature of the Building Authority thereto.

(9) At any time before such costs and any interest accrued thereon has been wholly recovered, a memorial of the certificate referred to in subsection (1) may be registered in the Land Registry against the title of any premises or land in respect of which such cost arose, and upon such registration the cost and any interest accrued or thereafter accruing shall- (Amended 8 of 1993 s. 2)

- (a) be recoverable by action in Court in accordance with the provisions of this section from any person who from such Land Registry register then or thereafter appears to be the owner of such premises or land: (Amended 8 of 1993 s. 2)

Provided that-

- (i) the amount recovered by virtue of this subsection shall not exceed the value of that person's interest in the premises or land charged; and
  - (ii) where the amount so recovered is equal to the value of the premises or land the charge created under paragraph (b) shall become void; and
- (b) constitute a first charge on the said premises or land which shall give the Building Authority the same powers and remedies in respect thereof as if he were a mortgagee under a mortgage by deed in common form having power of sale and lease and of appointing a receiver: (Amended 37 of 1961 s. 5)

Provided that the charge shall be void and no liability shall accrue under this subsection against a bona fide purchaser or mortgagee of the premises or land for valuable consideration who, subsequent to the completion of the works specified in the certificate and before the registration of the memorial thereof, has acquired and registered an interest in the premises or land to be charged. (Replaced 44 of 1959 s. 15. Amended 72 of 1980 s. 11)

(10) Upon the recovery of any sum under this section the Building Authority shall lodge in the Land Registry an appropriate memorial of satisfaction against any memorial lodged there by him under subsection (9). (Amended 8 of 1993 s. 2)

(Amended 13 of 1966 Schedule)

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section 35	Service of notices and orders		30/06/1997
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Any notice, order or certificate required to be served under this Ordinance may be served by serving a copy-

- (a) personally; or
- (b) by registered post addressed to the last known place of business or residence of the person to be served; or
- (c) by leaving the same with an adult occupier of the premises or land to which the notice or order relates or by posting the same upon a conspicuous part of such premises or land: (Amended 72 of 1980 s. 13)

Provided that in addition to or in substitution for any such method of service the publication in the Gazette of any such notice or order together with the available particulars of the person to whom it is addressed shall be deemed to be good service.

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section 37	Limitation of public liability		30/06/1997
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(1) No liability shall rest upon Government or upon any public officer by reason of the fact that any building works are carried out in accordance with the provisions of this Ordinance or that such building works or the plans thereof or materials therefor are subject to inspection or approval by a public officer, nor shall anything in this Ordinance make it obligatory for the Building Authority to inspect any building, building works or materials or the site of any proposed building to ascertain that the provisions of this Ordinance are complied with or that plans, certificates and notices submitted to him are accurate.

(2) No matter or thing done by the Building Authority or by any public officer acting under his direction shall if it were done bona fide for the purpose of executing this Ordinance subject him or such public officer personally to any action, liability, claim or demand whatsoever.

(3) Nothing in this Ordinance contained shall exempt any person from any proceeding by way of mandamus, injunction, prohibition or other order unless it is expressly so enacted.

(Amended 31 of 1966 s. 102)

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section 38	Regulations	L.N. 225 of 2008	15/12/2008
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) The Secretary may by regulation provide for- (Amended L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007; 20 of 2008 s. 25)

- (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)
  - (vii) registered minor works contractors; (Added 20 of 2008 s. 25)

- (aa) restoration to and removal from the register of any person referred to in paragraph (a);  
(Added 20 of 2008 s. 25)
- (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;
- (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 prescribed building professionals 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; (Added 20 of 2008 s. 25)
- (kb) the prescription of any requirements as simplified requirements for the purposes of the definition of “simplified requirements” in section 2(1), including-
  - (i) the duties of any prescribed building professionals and prescribed registered contractors, appointed in respect of minor works commenced under the simplified requirements (whether to be performed before or after the commencement of the minor works);
  - (ii) the requirements for the commencement, carrying out, completion and certification of minor works under the simplified requirements; and
  - (iii) the requirements for the submission or delivery of prescribed plans, certificates, notices or other documents to the Building Authority or other persons; (Added 20 of 2008 s. 25)
- (kc) matters relating to the enforcement of or other matters concerning the simplified requirements; (Added 20 of 2008 s. 25)
- (kd) matters relating to the display or indication of information relating to-
  - (i) the registration number of any prescribed registered contractor; and
  - (ii) the class, type and item of the minor works in respect of which any prescribed registered contractor is registered,in order to facilitate any member of the public to ascertain whether he is, in relation to any matter connected with any activity under this Ordinance, dealing with a contractor registered under this Ordinance; (Added 20 of 2008 s. 25)

- (ke) 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; (Added 20 of 2008 s. 25)
- (kf) the designation of any building works as designated exempted works for the purposes of section 41(3B); (Added 20 of 2008 s. 25)
- (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)

(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). (Added 20 of 2008 s. 25)

(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)(b) 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 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; 20 of 2008 s. 25)

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

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section 39A	Technical memorandum	L.N. 225 of 2008	15/12/2008
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) The Secretary may issue a technical memorandum dealing with- (Amended L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007; 20 of 2008 s. 26)

- (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)

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section 39B	Obstruction of owners' corporation	L.N. 171 of 2004	31/12/2004
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(1) No person who has been notified by an owners' corporation of a building that an order has been served on the owners' corporation under sections 24(1), 26(1), 26A(1) or (3), 27A(1) or (2B), 27C(1) or (4) or 28(2)(a), (3) or (5) in relation to any common parts of the building shall-

- (a) obstruct a person employed or engaged by the owners' corporation in the carrying out of any works or other action that is required for the purpose of complying with the order; or
- (b) refuse to allow a person employed or engaged by the owners' corporation access to or the use of any premises, which is reasonably necessary for the carrying out of any works or other action that is required for the purpose of complying with the order.

(2) In this section-

"common parts" (公用部分) has the meaning assigned to it in section 2 of the Building Management Ordinance (Cap 344);

"owners' corporation" (業主立案法團) means a corporation registered under section 8 of the Building Management Ordinance (Cap 344).

(Added 15 of 2004 s. 30)

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
Section 40	Offences	L.N. 171 of 2004	31/12/2005

## 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-

- (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 46	Secretary to the Appeal Tribunal	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) There shall be a Secretary to the Appeal Tribunal for the purpose of providing administrative services to an Appeal Tribunal.

(2) The Secretary to the Appeal Tribunal shall be-

- (a) appointed by the Secretary for Development; (Amended L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007)
- (b) a public officer; and
- (c) a person other than a member of the Appeal Tribunal Panel.

(Part VI replaced 77 of 1994 s. 12)

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section 54	Saving		30/06/1997
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## PART VIII

### SAVING AND VALIDATION

Notwithstanding the repeal of the Buildings Ordinance 1935 (18 of 1935), the provisions of sections 110 to 126 of that Ordinance set out in the Second Schedule hereto shall continue in operation until such time as they are replaced by regulations enacted under section 38 or by any other enactment expressed to be in substitution for the provisions of the said sections: (Amended 16 of 1966 s. 11)

Provided that any reference to an architect in the said sections 110 to 126 shall be taken as references to an authorized person. (Added 52 of 1974 s. 14)

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Section 55	Validation		30/06/1997
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(1) Any public officer whom the Director of Building Development purported to authorize for the purposes of section 2(2) of this Ordinance at any time before the commencement of the Buildings (Amendment) (No. 2) Ordinance 1985 (73 of 1985) shall be deemed to have been validly authorized, notwithstanding that the public officer was not an officer of the Building Development Department. (Amended 42 of 1992 s. 10)

(2) Every act or thing done by the Building Authority or by any public officer authorized by him in writing in that behalf before the commencement of the Buildings (Amendment) Ordinance

1992 (42 of 1992) that would have been lawful if section 28 (as amended by section 3(a) of that Ordinance) had been in force at the time when it was done is hereby validated and declared to have been lawfully done by him. (Added 42 of 1992 s. 10; Amended 77 of 1992 s. 5)

(2A) Every act or thing done by the Building Authority or by any public officer authorized by him in writing in that behalf, before the commencement of the Buildings (Amendment) (No. 2) Ordinance 1992 (77 of 1992) that would have been lawful if-

(a) section 28(7)(a); and

(b) section 28(7)(c) (in so far as it relates to the power to carry out or cause to be carried out such drainage works as the Building Authority considers necessary or expedient but as if there was no requirement to have regard to the findings of an investigation),

had been in force at the time when it was done is hereby validated and declared to have been lawfully done by him. (Added 77 of 1992 s. 5)

(3) Every act or thing done by any officer of the Drainage Services Department before 21 November 1991 that would have been lawful if the Fourth Schedule (as amended by the resolution of the Legislative Council (L.N. 406 of 1991)) had been in force and if the act or thing done had been authorized by the Director of Buildings and Lands at the time when it was done is hereby validated and declared to have been lawfully done by the officer. (Added 42 of 1992 s. 10)

(73 of 1985 s. 4 incorporated)

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
Schedule 2		29 of 1998; 62 of 2000	01/07/1997

Remarks:

Adaptation amendments retroactively made - see 29 of 1998 s. 105; 62 of 2000 s. 3

[section 54]

## PROVISIONS OF BUILDINGS ORDINANCE 1935 TO CONTINUE IN OPERATION

### Rights of Building and Adjoining Owners

#### **110. Definitions "adjoining owner" and "building owner"; provisions for buildings adjoining unbuilt-on land**

(1) In this section and in sections 111 to 126-

"adjoining owner" (毗鄰擁有人) means an owner, and "adjoining occupier" (毗鄰佔用人) means an occupier, of land, buildings, storeys or rooms adjoining those of a building owner;

"building owner" (建築物擁有人) means such one of the owners of adjoining land who is desirous of building, or such one of the owners of buildings, storeys or rooms, separated from one another by a party wall or party structure who does or is desirous of doing a work affecting that party wall or party structure.

(2) Where lands held under lease from the Government by different owners adjoin and are unbuilt-on at the line of junction, and either owner is about to build on any part of the line junction, the following provisions shall have effect. (Amended 29 of 1998 s. 105)

(3) If the building owner desires to build a party wall on the line of junction, he shall serve notice thereof on the adjoining owner describing the intended wall.

(4) If the adjoining owner consents to the building of a party wall, the wall shall be built half on the land of each of the 2 owners, or in such other position as may be agreed between them.

(5) The expenses of the building of the party wall shall from time to time be defrayed by the 2 owners in due proportion, regard being had to the use made and which may be made of the wall by them respectively.

(6) If the adjoining owner does not consent to the building of a party wall, the building owner shall not build the wall otherwise than as an external wall placed wholly on his own land.

(7) If the building owner does not desire to build a party wall on the line of junction but desires to build an external wall placed wholly on his own land, he shall serve notice thereof on the adjoining owner describing the intended wall.

(8) Where in any of the cases aforesaid the building owner proceeds to build an external wall on his own land, he shall have a right at his own expense, at any time after the expiration of 1 month from the service of the notice, to place on the land of adjoining owner below the level of the lowest floor, the projecting footings of the external wall with concrete or other solid substructure thereunder, making compensation to the adjoining owner or occupier for any damage occasioned thereby. The amount of such compensation, if any difference arises, shall be determined in the manner in which differences between building owners and adjoining owners are hereinafter directed to be determined.

(9) Where an external wall is built against another external wall or against a party wall, it shall be lawful for the Building Authority to allow the footing of the side next such other external or party wall to be omitted.

#### **111. Rights of building owner in relation to party structures, etc.; existing prior building**

The building owner shall have the following rights in relation to party structures and adjoining structures-

- (a) to make good, underpin, or repair any party structure which is defective or out of repair;
- (b) to pull down and rebuild any party structure which is so far defective or out of repair as to make it necessary or desirable to pull it down;
- (c) to pull down any timber or other partition which divides any buildings, and is not conformable to the provisions of this Ordinance, and to build instead thereof a party wall conformable thereto;
- (d) in the case of buildings having rooms or storeys the property of different owners intermixed, to pull down such of the said rooms or storeys, or any part thereof as are not built in conformity with this Ordinance, and to rebuild the same in conformity therewith;
- (e) in the case of buildings connected by arches or communications over streets belonging to other persons, to pull down such of the said buildings, arches or communications or such parts thereof as are not built in conformity with this Ordinance, and to rebuild the same in conformity therewith;
- (f) to raise and underpin any party structure permitted by this Ordinance to be raised or underpinned or any external wall built against such party structure, upon condition of making good all damage occasioned thereby to the adjoining premises or to the internal finishings and decorations thereof, and of carrying up to the requisite height all flues and chimney stacks belonging to the adjoining owner on or against such party structure or external wall;
- (g) to pull down any party structure which is of insufficient strength for any building intended to be built, and to rebuild the same of sufficient strength for the above purposes, upon condition of making good all damage occasioned thereby to the adjoining premises or to the internal finishings and decorations thereof;
- (h) to cut into any party structure upon condition of making good all damage occasioned to the adjoining premises by such operation;
- (i) to cut away any footing or any chimney-breast, jamb or flue projecting, or other projection from any party wall or external wall in order to erect an external wall against such party wall, or for any other purpose, upon condition of making good all damage occasioned to the adjoining premises by such operation;
- (j) to cut away or take down such parts of any wall or building of an adjoining owner as may be necessary in consequence of such wall or building overhanging the ground of the building owner, in order to erect an upright wall against the same, on condition of making good any damage sustained by the wall or building by such operation;
- (k) to raise a party fence wall, or to pull the same down and rebuild it as a party wall;
- (l) to perform any other necessary works incident to the connexion of a party structure with the premises adjoining thereto-



Provided that these rights shall be subject to this qualification, that any building which has been erected prior to 21 February 1903 shall be deemed to be conformable to the provisions hereof if it be conformable to the provisions of the Ordinances regulating buildings before that date.

**112. Requirements of adjoining owner in relation to party structures; differences between building owner and adjoining owner**

(1) Where a building owner proposes to exercise any of the foregoing rights with respect to party structures, the adjoining owner may by notice require the building owner to build on any such party structure such chimney copings, jambs, or breasts, or flues, or such piers or recesses, or any other like works as may fairly be required for the convenience of such adjoining owner, and may be specified in the notice; and it shall be the duty of the building owner to comply with such requisition in all cases where the execution of the required works will not be injurious to the building owner, or cause to him unnecessary inconvenience or unnecessary delay in the exercise of his right.

(2) Any difference that arises between a building owner and an adjoining owner in respect of the execution of any such works shall be determined in the manner in which differences between building owners and adjoining owners are hereinafter directed to be determined.

**113. Notice to be given by building owner before work commences**

(1) A building owner shall not, except with the consent in writing of the adjoining owner, and of the adjoining occupiers, or in cases where any wall or party structure is dangerous (in which cases the appropriate provisions of this Ordinance shall apply), exercise any of his rights under this Ordinance in respect of any party fence wall unless at least 1 month, or exercise any of his rights under this Ordinance in relation to any party wall or party structure other than a party fence wall, unless at least 2 months before doing so he has served on the adjoining owner of the party fence wall, the party wall or party structure, as the case may be, notice stating the nature and particulars of the proposed work and the time at which the work is proposed to be commenced.

(2) When a building owner in the exercise of any of his rights under this Ordinance lays open any part of the adjoining land or building, he shall at his own expense make and maintain for a proper time a proper hoarding and shoring or temporary construction for protection of the adjoining land or building and the security of the adjoining occupier.

(3) A building owner shall not exercise any right given to him by this Ordinance in such manner or at such time as to cause unnecessary inconvenience to the adjoining owner or to the adjoining occupier.

(4) A party wall or structure notice shall not be available for the exercise of any right, unless the work to which the notice relates is begun within 6 months after the service thereof, and is prosecuted with due diligence.

(5) Within 1 month after receipt of such notice the adjoining owner may serve on the building owner a notice requiring him to build on any such party structure any works to the construction of which he is hereinbefore declared to be entitled.

(6) The last-mentioned notice shall specify the works required by the adjoining owner for his convenience, and shall, if necessary, be accompanied by explanatory plans and drawings.

(7) If either owner does not, within 14 days after the service on him of any notice, express his consent thereto, he shall be considered as having dissented therefrom, and thereupon a difference shall be deemed to have arisen between the building owner and the adjoining owner

**114. Differences between building owner and adjoining owner**

(1) In all cases not specially provided for by this Ordinance, where a difference arises between a building owner and an adjoining owner in respect of any matter arising with reference to any work to which any notice given under this Ordinance relates, unless both parties concur in the appointment of 1 architect they shall each appoint an architect, and the 2 architects so appointed shall select a third architect, and such 1 architect, or 3 architects, or any 2 of them, shall settle any matter from time to time during the continuance of any work to which the notice relates in dispute between such building owner and adjoining owner, with power by his or their award to determine the right to do, and the time

and manner of doing any work, and generally any other matter arising out of or incidental to such difference; but any time so appointed for doing any work shall not, unless otherwise agreed, commence until after the expiration of the period by this Ordinance prescribed for the notice in the particular case. (Amended L.N. 159 of 1990)

(2) Any award given by such 1 architect, or by such 3 architects, or by any 2 of them, shall be conclusive, and shall not be questioned in any court; with this exception, that either of the parties to the difference may within 14 days from the date of the delivery of the award, appeal therefrom to a judge in chambers, who may, subject as hereafter in this section mentioned, rescind the award or modify it in such manner as he thinks just.

(3) If either party to the difference makes default in appointing an architect for 10 days after notice has been served on him by the other party to make such appointment, the party giving the notice may make the appointment in the place of the party so making default.

(4) The costs incurred in making or obtaining the award shall be paid by such party as the architect or architects determine.

(5) If the appellant on appearing before the judge declares his unwillingness to have the matter decided by him, and proves to his satisfaction that in the event of the matter being decided against him he will be liable to pay a sum, exclusive of costs, exceeding \$500, and gives security, to be approved by the judge, duly to prosecute an action in the Court of First Instance and to abide the event thereof all proceedings in Chambers shall thereupon be stayed, and the appellant may bring an action in the Court of First Instance against the other party to the difference. (Amended 62 of 2000 s. 3)

(6) The plaintiff in such action shall deliver to the defendants an issue whereby the matters in difference between them may be tried, and the form of such issue in case of dispute or of the non-appearance of the defendant shall be settled by the court, and the action shall be prosecuted and the issue tried in all respects as if it were an ordinary action or issue in the Court of First Instance, or as near thereto as circumstances admit. (Amended 62 of 2000 s. 3)

(7) If the parties agree as to the facts a special case may be stated for the opinion of the court, and such case shall be heard and decided in all respects as if it were an ordinary case stated for the opinion of the court, or as near thereto as circumstances admit; and any costs that may have been incurred before the judge in chambers shall be deemed to be costs incurred in the action and be payable accordingly.

(8) Where both parties have concurred in the appointment of 1 architect then, if he refuses, or for 7 days neglects to act, or if he dies or becomes incapable of acting before he has made his award, the matters in dispute shall be determined in the same manner as if he had not been appointed.

(9) Where each party has appointed an architect and a third architect has been selected, then, if he refuses, or for 7 days neglects to act, or before such difference is settled, dies, or becomes incapable of acting, the 2 architects shall forthwith select another architect in his place who shall have the same powers and authorities as were vested in his predecessor.

(10) Where each party has appointed an architect, then, if the 2 architects refuse, or, for 7 days after request of either party, neglect to select a third architect, or another third architect as aforesaid the Chief Executive may, on the application of either party, appoint the Director of Buildings or some other fit person to act as third architect who shall have the same powers and authorities as if he had been selected by the 2 architects appointed by the parties. (Amended L.N. 76 of 1982; L.N. 94 of 1986; L.N. 291 of 1993; 62 of 2000 s. 3)

(11) Where each party has appointed an architect, then, if before the difference is settled either architect dies, or becomes incapable of acting, the part by whom he was appointed may appoint some other architect to act in his place, and if for the space of 7 days after notice served on him by the other party for that purpose, he fails to do so, the other architect may proceed ex parte, and his decision shall be as effectual as if he had been a single architect in whose appointment both parties had concurred; an architect so substituted as aforesaid shall have the same powers and authorities as were vested in the former architect at the time of his death or disability.

(12) Where each party has appointed an architect, then, if either of the architects refuses, or for 7 days neglects to act the other may proceed ex parte, and his decision shall be as effectual as if he had been a single architect in whose appointment both parties had concurred.

(13) In this section, "architect" (建築師) means "authorized architect".

## **115. Right of entry of building owner**

A building owner, his servants, agents and workmen, at all usual times of working, may enter and remain on any premises for the purpose of executing, and may execute any work which he has become entitled or is required in pursuance of this Ordinance to execute, removing any furniture or doing any other thing which may be necessary; and if the premises are closed, he and they may, accompanied by a police officer, break open any fences or doors in order to effect such entry:

Provided that before entering on any premises for the purpose of this section the building owner shall give 14 days' notice of his intention so to do to the owner and occupier. In case of emergency he shall give such notice only as may be reasonably practicable.

#### **116. Underpinning or strengthening of foundations of adjoining building**

Where a building owner intends to erect within 3 metres of a building belonging to an adjoining owner a building any part of which within such 3 metres extends to a lower level than the foundations of the building belonging to the adjoining owner, he may, and, if required by the adjoining owner, shall (subject as hereinafter provided) underpin or otherwise strengthen the foundations of the said building so far as may be necessary, and the following provisions shall have effect- (Amended L.N. 294 of 1976)

- (a) at least 2 months' notice in writing shall be given by the building owner to the adjoining owner stating his intention to build, and whether he proposes to underpin or otherwise strengthen the foundations of the said building, and such notice shall be accompanied by a plan and sections, showing the site of the proposed building, and the depth to which he proposes to excavate;
- (b) if the adjoining owner shall, within 14 days after being served with such notice, give a counternotice in writing that he disputes the necessity of such underpinning or strengthening, or that he requires such underpinning or strengthening, then, if such counternotice is not acquiesced in, a difference shall be deemed to have arisen between the building owner and the adjoining owner;
- (c) the building owner shall be liable to compensate the adjoining owner and occupier for any inconvenience, loss or damage which may result to them by reason of the exercise of the powers conferred by this section;
- (d) nothing in this section contained shall relieve the building owner from any liability to which he would otherwise be subject in case of injury caused by his building operations to the adjoining owner.

#### **117. Adjoining owner may require security to be given for payment of expenses and counter requisition by building owner**

(1) An adjoining owner may, if he thinks fit, by notice in writing, require the building owner (before commencing any work which he may be authorized by this Ordinance to execute) to give such security as may be agreed upon, or in case of difference as may be settled by a judge in chambers for the payment of all such expenses, costs and compensation in respect of the work as may be payable by the building owner.

(2) The building owner may, at any time after service on him of a party wall or party structure requisition by the adjoining owner, and before beginning a work to which the requisition relates, but not afterwards, serve a counter requisition on the adjoining owner, requiring him to give such security for payment of the expenses, costs, and compensation for which he is or will be liable, as may be agreed upon, or, in case of difference, as may be settled as aforesaid.

(3) If the adjoining owner does not within 1 month after service of the counter requisition give security accordingly, he shall at the end of that month be deemed to have ceased to be entitled to compliance with his party wall or party structure requisition, and the building owner may proceed as if no party wall or party structure requisition had been served on him by the adjoining owner.

#### **118. Expenses to be borne jointly by building owner and adjoining owner**

- (1) As to expenses to be borne jointly by the building owner and adjoining owner the following

provisions shall apply.

(2) If any party structure is defective or out of repair, the expenses of making good, underpinning, or repairing the same shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner makes or may make of the structure.

(3) If any party structure is pulled down and rebuilt by reason of its being so far defective or out of repair as to make it necessary or desirable to pull it down, the expense of such pulling down and rebuilding shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner may make of the structure.

(4) If any timber or other partition dividing a building is pulled down in exercise of the right by this Ordinance vested in a building owner, and a party structure is built instead thereof, the expense of building such party structure and also of building any additional party structures that may be required by reason of the partition having been pulled down, shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner may make of the party structure and to the thickness required for the support of the respective buildings parted thereby.

(5) If any rooms or storeys or any parts thereof, the property of different owners, and intermixed in any building, are pulled down in pursuance of the right by this Ordinance vested in a building owner, and are rebuilt in conformity with this Ordinance, the expense of such pulling down and rebuilding shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner may make of such rooms or storeys.

(6) If any arches or communications over public ways or over passages belonging to other persons than the owners of the buildings connected by such arches or communications, or any part thereof, are pulled down in pursuance of the right by this Ordinance vested in a building owner, and are rebuilt in conformity with this Ordinance, the expense of such pulling down and rebuilding shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner makes of such arches or communications.

#### **119. Expenses to be borne by the building owner**

(1) As to expenses to be borne by the building owner the following provisions shall apply.

(2) If any party structure or any external wall built against another external wall is raised or underpinned in pursuance of the power by this Ordinance vested in a building owner, the expense of raising or underpinning the same and of making good all damage occasioned thereby, and of carrying up to the requisite height all such flues and chimney-stacks belonging to the adjoining owner on or against any such party structure or external wall as are by this Ordinance required to be made good and carried up, shall be borne by the building owner.

(3) If any party structure, which is of proper materials and sound or not so far effective or out of repair as to make it necessary or desirable to pull it down, is pulled down and rebuilt by the building owner, the expense of pulling down and rebuilding the same and of making good any damage by this Ordinance required to be made good, and a fair allowance in respect of the disturbance and inconvenience caused to the adjoining owner shall be borne by the building owner.

(4) If any party structure is cut into by the building owner, the expense of cutting into the same, and of making good any damage by this Ordinance required to be made good shall be borne by such building owner.

(5) If any footing, chimney-breast, jamb or floor is cut away in pursuance of the powers by this Ordinance vested in a building owner, the expense of such cutting away and making good any damage by this Ordinance required to be made good shall be borne by the building owner.

(6) If any party fence wall is raised for a building, the expense of such raising shall be borne by the building owner.

(7) If any party fence wall is pulled down and built as a party wall the expense thereof shall be borne by the building owner.

#### **120. Proportion of expenses which may be borne by adjoining owner**

If at any time the adjoining owner makes use of any party structure or external wall (or any part thereof) raised or underpinned as aforesaid, or of any party fence wall pulled down and built as a party wall (or any part thereof) beyond the use thereof made by him before the alteration, there shall be

borne by the adjoining owner from time to time a due proportion of the expenses (having regard to the use that the adjoining owner may make thereof)-

- (a) of raising or underpinning such party structure or external wall, and of making good all such damage occasioned thereby to the adjoining owner, and of carrying up to the requisite height all such flues and chimney-stacks belonging to the adjoining owner on or against any such party structure or external wall as are by this Ordinance required to be made good and carried up;
- (b) of pulling down and building such party fence wall as a party wall.

#### **121. Statement of expenses to be submitted by building owner**

Within 1 month after the completion of any work which a building owner is by this Ordinance authorized or required to execute, and the expense of which is in whole or in part to be borne by an adjoining owner, the building owner shall deliver to the adjoining owner an account in writing of the particulars and expense of the work, specifying any deduction to which such adjoining owner may be entitled in respect of old materials, or in other respects, and every such work shall be estimated and valued at fair average rates and prices according to the nature of the work, and the locality and the market price of materials and labour at the time.

#### **122. Difference between building owner and adjoining owner as to expenses**

At any time within 1 month after the delivery of the said account the adjoining owner, if dissatisfied therewith, may declare his dissatisfaction to the building owner by notice in writing served by himself or his agent, and specifying his objections thereto, and thereupon a difference shall be deemed to have arisen between the parties, and shall be determined in manner hereinbefore provided for the settlement of differences between building and adjoining owners.

#### **123. Failure by adjoining owner to express dissatisfaction to be deemed acceptance**

If within the said period of 1 month the adjoining owner does not declare in the said manner his dissatisfaction with the account, he shall be deemed to have accepted the same, and shall pay the same on demand to the party delivering the account, and, if he fails to do so, the amount so due may be recovered as a debt.

#### **124. Adjoining owner failing to contribute, building owner to become sole owner**

Where the adjoining owner is liable to contribute to the expenses of building any party structure, then, until such contribution is paid, the building owner at whose expense the same was built shall stand possessed of the sole property in the structure.

#### **125. Adjoining owner liable for expenses incurred on his requisition**

The adjoining owner shall be liable for all expenses incurred on his requisition by the building owner, and in default of payment the same may be recovered from him as a debt.

#### **126. Other easements and rights in regard to party structures preserved**

Nothing in this Ordinance shall authorize any interference with any other easements in or relating to a party wall, or take away, abridge, or prejudicially affect any right of any person to preserve or restore any other thing in or connected with a party wall in case of the party wall being pulled down or rebuilt.

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Schedule 3	FORM OF WARRANT	25 of 1998	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 25 of 1998 s. 2

[section 18(6)(c)]

HONG KONG.

# IN THE MAGISTRATE'S COURT AT

WHEREAS I, a magistrate of Hong Kong, am satisfied by evidence on oath that .....

.....

(here specify name(s) of person(s) authorized to enter the building under section 18(6)(a) of the Buildings Ordinance) has/have been authorized by the Building authority to enter .....

.....  
(address of building) under section 18(6)(a) of the Buildings Ordinance:

AND WHEREAS I am also satisfied by evidence on oath that the entry to such building of a person authorized to enter the same by or under the said section 18(6)(a) of the Buildings Ordinance has been obstructed:

THESE are, therefore, to authorize the said .....

and his/their servants or agents and his/their agent's/agents' servants (being persons authorized prior to the issue of this warrant to enter the building aforesaid by or under section 18(6)(a) or (b) of the Buildings Ordinance) and any police officer of or above the rank of inspector and any other police officer acting under his direction to enter the building aforesaid on such occasion or occasions and at such time or times as may be necessary for the purpose for which the said .....  
was/were authorized to enter the said building under section 18(6)(a) of the Buildings Ordinance.

[L.S.]

(Signed) .....

.....

Magistrate.

(Added 40 of 1965 s. 11. Amended 16 of 1966 s. 12; 25 of 1998 s. 2)

Chapter 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Schedule 4		L.N. 104 of 2004	01/07/2004
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[section 2(2)]

1. Housing Department.
2. Buildings Department.
3. Architectural Services Department.
4. Civil Engineering and Development Department.

5. (L.N. 104 of 2004)
6. Highways Department.
7. Drainage Services Department. (Added L.N. 406 of 1991)  
(Replaced L.N. 94 of 1986. Amended L.N. 127 of 1986; L.N. 364 of 1991; L.N. 291 of 1993; L.N. 104 of 2004)

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.
  - (1) The railway protection areas along the Mass Transit Railway lines being- (Amended L.N. 177 of 2003)
    - (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
    - (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)
  - (2) The railway protection areas along the railway lines of the Kowloon-Canton Railway Corporation being- (Amended L.N. 133 of 2004)
    - (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,  
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 123	BUILDINGS ORDINANCE	Gazette Number	Version Date
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Schedule 6	FORM OF WARRANT	25 of 1998	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 25 of 1998 s. 2

[section 28C(1)]

HONG KONG

IN THE MAGISTRATE'S COURT AT

WHEREAS I, a magistrate of Hong Kong, am satisfied by evidence on oath that .....  
..... (here specify name(s) of person(s) authorized to enter upon the land and carry out and/maintain\* groundwater drainage works under section 28B of the Buildings Ordinance) has/have\* been authorized by the Building Authority to enter upon ..... (address of land) and there carry out and/maintain\* groundwater drainage work under section 28B of the Buildings Ordinance:

AND WHEREAS I am also satisfied by evidence on oath that the entry upon that land/and/the/carrying out/maintenance\* of those works by one or more of the persons so authorized has been obstructed:

THESE are, therefore, to authorize the said .....

.....  
and his/their\* servants or agents and his/their\* agent's/agents'\* servants (being persons so authorized before the issue of this warrant) to enter upon that land on such occasions and at such times as may be necessary for the purpose of carrying out those works and to carry out/and/maintain\* those works;



AND ALSO to authorize any police officer of or above the rank of inspector and any other police officer acting under his direction to enter upon that land in company with, and for the purpose of preventing the obstruction of, the said ..... his/their\* servants or his/their\* agent's/agents'\* servants.

(Signed) .....  
Magistrate.

\*Delete whichever is inapplicable.

(Added 41 of 1982 s. 12. Amended 25 of 1998 s. 2)

Chapter 123A	BUILDING (ADMINISTRATION) REGULATIONS	Gazette Number	Version Date
Regulation 42	Fees	L.N. 225 of 2008	15/12/2008

## PART VI

### FEES AND FORMS

The fees set out in the Table hereunder are prescribed for the purposes of the Ordinance and regulations-

#### TABLE OF FEES

		By whom payable	Amount
1.	(a)		
	(i)	Person	\$4150
	For each application for inclusion of name in each list of the authorized persons' register or in the structural engineers' register or geotechnical engineers' register.	applying for inclusion in register	
	(ii)	Successful applicant seeking inclusion in	\$335
	For each inclusion of name in each list of the authorized persons'		

register or in the structural engineers' register or geotechnic al engineers' register.	register .	
(b) For each application for retention of name in each list of the authorized persons' register or in the structural engineers' register or geotechnical engineers' register.	Author ized person or register ed structur al engine er or register ed geotec hnical engine er seeking retentio n in register .	\$1200 for retention for a period of 5 years.

(c) For each application for restoration of name in each list of the authorized persons' register or in the structural engineers' register or geotechnical engineers' register.	Person seeking restorat ion to register .	\$125
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(39 of 2000 s. 7; 15 of 2004 s. 57; L.N. 221 of 2004)

2. (a) For application for registration as a general building contractor-	Person seeking registra tion.	
(i) a basic fee shall be payable, covering the		\$5020

applicant as an individual or, where the applicant is a partnership or a corporation, the first person appointed by the applicant to act for it;		
(ii) in addition to the basic fee, where the applicant is a partnership or a corporation, for each additional person appointed in the application to act for it.		\$4140
(b) For entry of name in the register of general building contractors.	Person seeking entry in the register	\$1180 for registration for a period of 3 years.
(c) For renewal of registration in the register of general building contractors.	Person seeking renewal.	\$1910 for renewal of registration for a period of 3 years.
(d) For application for restoration of name to the register from which the name of the general building contractor has been removed.	Person seeking restoration to the register	\$1140 for restoration and \$1180 for registration for a period of 3 years.
(e) If at any time prior to the	Registered	\$4390

expiry of its registration (including a registration that has been renewed or restored), a registered general building contractor which is a partnership or a corporation makes any appointment of a person to act for it, regardless of whether such appointment results in the replacement of, or is in addition to, persons already appointed, then for an application for the approval of each person so appointed.

general  
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g  
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tor.

(L.N. 441 of 1997; 15 of 2004 s. 57; L.N. 221 of 2004)

3-4. (Repealed 43 of 1987 s. 44)

- 4 (a) For application  
A. for registration as a specialist contractor, for each sub-register in the register of specialist contractors specified in the application-
- (i) a basic fee shall be payable, covering the applicant as an individual or, where the applicant is

Person  
seeking  
registra  
tion.

\$5020

<p>a partnership or a corporation , the first person appointed by the applicant to act for it;</p>			
<p>(ii) in addition to the basic fee, where the applicant is a partnership or a corporation , for each additional person appointed in the application to act for it.</p>			<p>\$4140</p>
<p>(b) For entry of name in each sub-register in the register of specialist contractors specified in the application.</p>		<p>Person seeking entry in the sub- register .</p>	<p>\$1180 for registration for a period of 3 years.</p>
<p>(c) For renewal of registration in each sub- register in the register of specialist contractors.</p>		<p>Person seeking renewa l.</p>	<p>\$1910 for renewal of registration for a period of 3 years.</p>
<p>(d) For application for restoration of name to each sub-register in the register of specialist contractors from which the name of the specialist contractor has been removed.</p>		<p>Person seeking restorat ion to the sub- register .</p>	<p>\$1140 for restoration and \$1180 for registration for a period of 3 years.</p>
<p>(e) If at any time prior to the</p>		<p>Registe red</p>	<p>\$4390</p>

expiry of its registration (including a registration that has been renewed or restored), a registered specialist contractor which is a partnership or a corporation makes any appointment of a person to act for it, regardless of whether such appointment results in the replacement of, or is in addition to, persons already appointed, then for an application for the approval of each person so appointed.

specialist contractor.

(L.N. 441 of 1997; 15 of 2004 s. 57; L.N. 221 of 2004; L.N. 221 of 2004)

5. (Repealed L.N. 79 of 1992)

6. (Repealed 54 of 1996 s. 26)

7. For the purposes of regulations 6(2), 29 and 33-

for any resubmission

-

Free

For the purposes of this item, a resubmission means-

- (i) a further submission of a plan of building works or an amendment plan of an approved plan under regulation 6(2); or
- (ii) a submission of an amendment plan of an approved plan of building works under regulation 29 or 33.

(L.N. 220 of 1991; L.N. 185 of 1992)

7 For the purposes of  
A. regulations 29 and 33-

- (a) for a new plan or a major revision of such plan of building works in respect of-

- (i) a proposed

Applica

\$2160 for every 100 square metres or part

	new industrial building of a gross floor area of 20000 square metres or less	nt	thereof, subject to a minimum charge of \$8230
(ii)	a proposed new industrial building of a gross floor of more than 20000 square metres	Applicant	\$1740 for every 100 square metres or part thereof, subject to a minimum charge of \$432400
(iii)	a proposed new building for which there is no accountable gross floor area, such as a transformer station, an oil storage installation, a petrol filling station, a jetty or similar structure	Applicant	\$11200 for each size of 841 mm by 594 mm or part thereof of the plan (L.N. 185 of 1992; L.N. 367 of 1992)
(iv)	(Repealed L.N. 185 of 1992)		
(v)	a proposed new non-industrial building of a gross floor area of 10000 square metres or less	Applicant	\$3430 for every 100 square metres or part thereof, subject to a minimum charge of \$8230
(vi)	a proposed new non-industrial building of	Applicant	\$2750 for every 100 square metres or part thereof, subject to a minimum charge of \$343400

a gross  
floor area  
of more  
than 10000  
square  
metres

For the purposes of this paragraph, "industrial building" (工業建築物) includes a factory, a workshop and a godown.

- |  |               |  |
|--|---------------|--|
| (b) for a new plan<br>or a major<br>revision of such<br>plan of<br>alteration and<br>addition works<br>or other<br>building works<br>not resulting in<br>a new building. | Applica<br>nt | \$11200 for each size of 841 mm by 594 mm or<br>part thereof of the plan |
|--|---------------|--|

(L.N. 220 of 1991; L.N. 185 of 1992; L.N. 355 of 1993; L.N. 366 of 1994; L.N. 269 of 1995)

- |  |  |        |
|--|--|--------|
| 8. For the purposes of<br>regulation 39. | Author<br>ized<br>person<br>or<br>register<br>ed<br>structur<br>al<br>engine<br>er or<br>register<br>ed<br>geotec<br>hnical<br>engine<br>er. | \$2420 |
|--|--|--------|

(L.N. 209 of 1991; L.N. 313 of 1994; L.N. 191 of 1995; L.N. 442 of 1997; 15 of 2004 s. 57)

- |  |   |       |
|--|---|-------|
| 9. For the purposes of<br>regulation 73(5) of<br>the Building<br>(Standards of<br>Sanitary Fitments,<br>Plumbing, Drainage<br>Works and Latrines)<br>Regulations (Cap<br>123 sub. leg. I). | Registe<br>red<br>general<br>buildin<br>g<br>contrac<br>tor or<br>register<br>ed<br>speciali<br>st<br>contrac<br>tor. | \$925 |
|--|---|-------|

(L.N. 209 of 1991; L.N. 313 of 1994; L.N. 191 of 1995; L.N. 441 of 1997)

- 10 (a) For issue under  
section 36G(2)  
of the



Ordinance of a certified copy, print or extract of or from a document made, issued or given under or for the purposes of the Ordinance or the Buildings Ordinance 1935 (18 of 1935), or a certified copy, print or extract of or from a specified document record that is made from the document, that is in-

- (i) paper form
- (ii) microfilm form
- (iii) electronic form

Applicant	\$45	}	for applicants who have not inspected the document or record pursuant to section 36G(3) of the Ordinance immediately before the issue	\$8.5	}	for applicants who have inspected the document or record pursuant to section 36G(3) of the Ordinance immediately before the issue
Applicant	\$45	}		\$8.5	}	
Applicant	\$45	}		\$8.0	}	

- (b) For issue under section 36G(2) of the Ordinance of a certified copy, print or extract of or from a plan submitted to or approved by the Building Authority under or for the purposes of the Ordinance or the Buildings Ordinance 1935 (18 of 1935), or a certified copy, print or extract of or from a specified document record that is

made from the  
plan, that is in-  
(i) paper form

(ii) microfilm  
form

(iii) electronic  
form

Applicant	\$15 5	}	for applicants who have not	\$58	}	for applicants who have
		}	inspected the		}	inspected the
Applicant	\$12 5	}	plan or record	\$52	}	plan or record
		}	pursuant to		}	pursuant to
		}	36G(3) of the		}	36G(3) of the
Applicant	\$93	}	Ordinance	\$42	}	Ordinance
		}	immediately		}	immediately
		}	before the		}	before the issue
		}	issue		}	

(15 of 2004 s. 57; 20 of 2008 s. 43)

11 (a) For issue under  
section 36G(1)  
of the  
Ordinance of a  
copy, a print or  
an extract of or  
from a  
document made,  
issued or given  
under or for the  
purposes of the  
Ordinance or  
the Buildings  
Ordinance 1935  
(18 of 1935), or  
a copy, a print  
or an extract of  
or from a  
specified  
document  
record that is  
made from the  
document, that  
is in-

(i) paper form

(ii) microfilm form

(iii) electronic form

Applicant	\$38	}	for applicants	\$1	}	for applicants
		}	who have not	.6	}	who have
		}	inspected the		}	inspected the
Applicant	\$38	}	document or	\$1	}	document or
		}	record	.6	}	record pursuant
		}	pursuant to		}	to 36G(3) of
Applicant	\$38	}	36G(3) of the	\$1	}	the Ordinance
		}	Ordinance	.4	}	immediately
		}	immediately		}	before the issue
		}	before the		}	
		}	issue		}	

(b) For issue under  
section 36G(1)  
of the  
Ordinance of a  
copy, a print or  
an extract of or  
from a plan

submitted to or approved by the Building Authority under or for the purposes of the Ordinance or the Buildings Ordinance 1935 (18 of 1935), or a copy, a print or an extract of or from a specified document record that is made from the plan, that is in-

(i) paper form

(ii) microfilm form

(iii) electronic form

Applicant	\$135	}	for applicants who have not inspected the plan or record pursuant to 36G(3) of the Ordinance immediately before the issue	\$40	}	for applicants who have inspected the plan or record pursuant to 36G(3) of the Ordinance immediately before the issue
Applicant	\$110	}		\$34	}	
Applicant	\$74	}		\$24	}	

(15 of 2004 s. 57; 20 of 2008 s. 43)

12 (a) For inspection under section 36G(3) of the Ordinance of a specified document or a specified document record, that is in-

(i) paper form

(ii) microfilm form

(iii) electronic form

Applicant	\$80	for one or more specified documents or specified document records kept in the same file in paper form
Applicant	\$58	for one or more specified documents or specified document records originally kept in the same file in paper form
Applicant	\$36	for one or more specified documents or specified document records originally kept in the same file in paper form

For the purposes of this item, 2 or more files are regarded as the same file if they bear the same file reference number.

(15 of 2004 s. 57; 20 of 2008 s. 43)

(L.N. 188 of 1974; L.N. 331 of 1985; L.N. 103 of 1993)

Chapter 123B	BUILDING (CONSTRUCTION) REGULATIONS	Gazette Number	Version Date
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Regulation 2	Interpretation		30/06/1997
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In these regulations, unless the context otherwise requires-

"carriageway" (車路) means that part of a private street, cul-de-sac or access road used or intended to be used by vehicular traffic;

"chimney" (煙) means any structure designed as a flue and any structure enclosing a flue or flues;

"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. 195 of 1996)

"dead load" (恆載) means the weight of walls, floors, roofs, finishes, permanent partitions and other permanent construction;

"external wall" (外牆) means an outer wall of a building even though adjoining a wall of another building;

"flue" (煙道) means a duct through which smoke or other products of combustion or fumes from any cooking apparatus or stove or oven, or vitiated air, pass or are intended to pass for the purpose of reaching the open air;

"foundation" (基礎) means that part of a building, building works, structure or street in direct contact with and transmitting load to the ground;

"imposed load" (外加荷載) means load other than dead load or wind load;

"load bearing" (承載) in relation to any part of a building, building works or street means any such part bearing a load other than that due to its own weight and to wind pressure on its own surface;

"masonry" (砌石) means an assemblage of bricks or building blocks;

"non-combustible material" (不可燃物料) means material which satisfies a recognized non-combustibility test;

"pile" (樁) means a columnar foundation element which is-

- (a) pre-manufactured and inserted into the ground by driving, jacking or other method; or
- (b) cast-in-place in a shaft formed in the ground by boring, excavating or inserting a shell;

"plain concrete" (素混凝土) means concrete in which no reinforcement is included for structural purposes but in which reinforcement may be provided for the purpose of restraining shrinkage or other movement;

"site investigation" (地盤勘測) means investigation of the physical characteristics of the site and includes documentary studies, site surveys and ground investigation;

"wind load" (風荷載) means any load due to the effects of wind pressure or suction.

(Enacted 1990)

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 m<sup>2</sup> 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 123H	BUILDING (REFUSE STORAGE AND MATERIAL RECOVERY CHAMBERS AND REFUSE CHUTES) REGULATIONS	Gazette Number	Version Date
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Regulation 2	Interpretation	L.N. 125 of 2008	01/12/2008
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In these regulations, unless the context otherwise requires-

"aggregate usable floor space" (總實用樓面空間) in relation to a composite building means the aggregate of the usable floor space of the domestic building component of that composite building and one third of the usable floor space of the non-domestic building component of that composite building;

"approved" (批准) means approved by the Building Authority;

"church" (教堂) means a building constructed or intended to be used principally for the purpose of religious worship;

"collection authority" (收集當局) means the Director of Food and Environmental Hygiene; (78 of 1999 s. 7)

"external wall" (外牆) means an outer wall of a building not being a party wall, even though adjoining a wall of another building;

"floor area" (樓面面積) means-

(a) in relation to a composite building, the aggregate usable floor space; or

(b) in relation to any other building, the usable floor space;

"foul water" (穢水) has the meaning assigned to it by the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations (Cap 123 sub. leg. I);

"hopper" (漏斗) means the fitment on a refuse chute into which refuse is placed and from which it is projected into the chute;

"industrial building" (工業建築物) means-

(a) a godown; or

(b) a building in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed;

"material recovery chamber" (物料回收房) means a chamber in which separating and sorting of reusable or recyclable materials are carried out and recovered materials are stored; (39 of 2000 s. 7)

"material recovery chamber with vehicular access" (設有車輛通道的物料回收房) means a material recovery chamber to which vehicular access is provided adequate for the ingress and egress of a material recovery collection vehicle of a type customarily used by the collection authority; (39 of 2000 s. 7)

"open air" (露天地方) has the meaning assigned to it by the Building (Planning) Regulations (Cap 123 sub. leg. F);

"plan" (圖則) means a plan submitted to the Building Authority for approval under section 14 of the Ordinance;

"recovered materials" (回收物料) means any reusable or recyclable materials which are recovered from refuse; (39 of 2000 s. 7)

"recyclable materials" (可循環再造物料) means any materials which are capable of being regenerated into raw materials in the manufacture of new products; (39 of 2000 s. 7)

"refuse container" (垃圾桶) means a receptacle in which refuse is intended to be stored;

"refuse storage and material recovery chamber" (垃圾及物料回收房) means a single chamber in which refuse containers are stored and in which separating and sorting of reusable or recyclable materials are carried out and recovered materials are stored; (39 of 2000 s. 7)

"refuse storage and material recovery chamber with vehicular access" (設有車輛通道的垃圾及物料回收房) means a refuse storage and material recovery chamber to which vehicular access is provided adequate for the ingress and egress of a refuse and material recovery collection vehicle of a type customarily used by the collection authority; (39 of 2000 s. 7)

"refuse storage and material recovery room" (垃圾及物料回收室) means a single room in any building which is used for separation of refuse, sorting of reusable or recyclable materials and storage of refuse and recovered materials; (39 of 2000 s. 7; L.N. 125 of 2008)

"reusable materials" (可再使用物料) means any materials which are capable of being used again or repeatedly in its current form without breaking down into raw materials; (39 of 2000 s. 7)

"reusable or recyclable materials" (可再使用或可循環再造物料) means the composition of reusable materials and recyclable materials, including paper, paperboard, plastic, glass, wood, metal and textile; (39 of 2000 s. 7; L.N. 125 of 2008)

"school" (學校) means a building constructed or intended to be used principally for the purpose of primary, secondary or tertiary education and includes a building used wholly for the provision of a day nursery, kindergarten, play group, play school or otherwise for the day-time care and education of children and a building used principally for other full-time education;

"soil fitment" (便溺污水設備) has the meaning assigned to it by the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations (Cap 123 sub. leg. I);

"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.  
(39 of 2000 s. 7)

Chapter 123M	BUILDING (ENERGY EFFICIENCY) REGULATION	Gazette Number	Version Date
Section 2	Interpretation		30/06/1997

In this Regulation, unless the context otherwise requires-

"commercial buildings" (商業建築物) includes offices, shops, department stores, places of public entertainment, places of public assembly, restaurants and any other buildings used for commercial purposes, but does not include hotels, domestic premises, industrial buildings,

schools, carparks, places used for bulk storage and utility buildings such as power stations and sub-stations;

"external wall" (外牆) means an outer wall of a building and includes a wall adjoining a wall of another building but does not include a wall or part of a wall which is underground;

"hotel" (旅館) has the meaning assigned to it by section 2 of the Hotel and Guesthouse Accommodation Ordinance (Cap 349);

"overall thermal transfer value" (總熱傳送值) means, as regards a building, the amount, expressed in watts per square metre ( $W/m^2$ ), of heat transferred through that building envelope and calculated having regard to factors such as the area of the building envelope, the material used in its construction, thermal properties of the material, orientation of the building, the area of the openings in the building envelope and the shading effect of projections from the building envelope;

"refuge floor" (庇護層) means a protected floor that serves as a refuge for the occupants of the building to assemble in case of fire.

(Enacted 1995)

Chapter 1C	SPECIFICATION OF PUBLIC OFFICES	Gazette Number	Version Date
Schedule	SCHEDULE	L.N. 99 of 2009	10/07/2009

Public Office	Ordinance or section of Ordinance for which specified
Chief Justice	Bankruptcy Ordinance (Chapter 6), section 99A(7)(c). (L.N. 270 of 1979)
Chief Justice	Companies Ordinance (Chapter 32), section 222A(7)(c). (L.N. 270 of 1979)
Chief Justice	Evidence Ordinance (Chapter 8), sections 27(2) and 29A(2). (L.N. 229 of 1979)
Chief Justice	Juvenile Offenders Ordinance (Chapter 226), section 3A(2). (L.N. 229 of 1979)
Chief Secretary for Administration (L.N. 362 of 1997)	Abbot of the Order of Cistercians of the Strict Observance Incorporation Ordinance (Chapter 1107), section 6(2). (L.N. 368 of 1984; 1 of 2001 s. 8)
Chief Secretary for Administration (L.N. 362 of 1997)	Air Passenger Departure Tax Ordinance (Chapter 140). (L.N. 318 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Basel Evangelical Missionary Society Incorporation Ordinance (Chapter 1002), section 6(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Catholic Mission of Macao Incorporation Ordinance (Chapter 1006), section 5(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Chater (Cathedral and St. Andrew's) Endowment Funds Incorporation Ordinance (Chapter 1050), section 4(3). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	China Peniel Missionary Society Incorporation Ordinance (Chapter 1011), Section 6(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Church of Christ in China, Wanchai Church, Incorporation Ordinance (Chapter 1063), section 6(3). (L.N. 368 of 1984)
Chief Secretary for Administration	Colony Armorial Bearings (Protection) Ordinance (Chapter 315), section 3. (L.N. 103 of 1966)



(L.N. 362 of 1997)	
Chief Secretary for Administration (L.N. 362 of 1997)	Congregation of Our Lady of Charity of the Good Shepherd of Angers at Hong Kong Incorporation Ordinance (Chapter 1084), section 6(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Criminal Procedure Ordinance (Chapter 221), section 85(1). (L.N. 3 of 1986)
Chief Secretary for Administration (L.N. 362 of 1997)	Daughters of Charity of the Canossian Institute Incorporation Ordinance (Chapter 1016), section 5(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Daughters of Mary Help of Christians Incorporation Ordinance (Chapter 1070), section 6(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Education Scholarships Fund Ordinance (Chapter 1085), section 6(2). (L.N. 7 of 1992)
Chief Secretary for Administration (L.N. 362 of 1997)	Evidence Ordinance (Chapter 8), sections 19A(1) and 40(5). (L.N. 311 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Heung Yee Kuk Ordinance (Chapter 1097). (L.N. 71 of 1974)
Chief Secretary for Administration (L.N. 362 of 1997)	Immigration Ordinance (Chapter 115). (L.N. 198 of 1973)
Chief Secretary for Administration (L.N. 362 of 1997)	Institute of the Soeurs des Missions Etrangeres Incorporation Ordinance (Chapter 1088), section 5(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Irish Province of the Order of Franciscans Minor Incorporation Ordinance (Chapter 1028), section 5(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Jesuit Order (English Assistancy) Incorporation Ordinance (Chapter 1029), section 5(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Jesuit Order (Portuguese Province) Incorporation Ordinance (Chapter 1030), section 5(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Kowloon Union Church Incorporation Ordinance (Chapter 1032), section 6(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Maryknoll Sisters of St. Dominic Incorporation Ordinance (Chapter 1019), section 5(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Norwegian Seamen's Mission Incorporation Ordinance (Chapter 1056), section 7(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Petites Soeurs des Pauvres, St. Pern, Bretagne, Incorporation Ordinance (Chapter 1039), section 6(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Pontifical Foreign Missions Institute Incorporation Ordinance (Chapter 1041), section 5(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Prison Rules (Chapter 234 subsidiary legislation A), rule 222(2). (L.N. 48 of 1967)
Chief Secretary for	Probation of Offenders Rules (Chapter 298 subsidiary

Administration (L.N. 362 of 1997)	legislation A), rule 42. (L.N. 48 of 1967)
Chief Secretary for Administration (L.N. 362 of 1997)	Registration of Persons Ordinance (Chapter 177), section 11. (L.N. 137 of 1970; 9 of 2003 s. 23)
Chief Secretary for Administration (L.N. 362 of 1997)	Salesian Society Incorporation Ordinance (Chapter 1043), section 5(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Sisters of the Precious Blood Order Incorporation Ordinance (Chapter 1045), section 4(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Soeurs de Saint Paul de Chartres Incorporation Ordinance (Chapter 1046), section 5(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	The Rules of the Supreme Court (Chapter 4 subsidiary legislation A), Order 69, rule 2, and Order 70, rule 3. (L.N. 153 of 1967)
Chief Secretary for Administration (L.N. 362 of 1997)	Tsung Tsin Mission of Hong Kong Incorporation Ordinance (Chapter 1090), section 6(2). (L.N. 368 of 1984)
Chief Secretary for Administration (L.N. 362 of 1997)	Union Church Incorporation Ordinance (Chapter 1052), section 14(5). (L.N. 368 of 1984)
Commissioner for Labour	Employees' Compensation Ordinance (Chapter 282). (L.N. 70 of 1970)
Commissioner for Labour	Factories and Industrial Undertakings Ordinance (Chapter 59), section 7(4). (L.N. 145 of 1970)
Commissioner for Labour	Factories and Industrial Undertakings Ordinance (Chapter 59), section 9A. (L.N. 220 of 1985)
Commissioner for Labour	Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Chapter 360). (L.N. 188 of 1981; 6 of 2008 s. 36)
Commissioner for Transport	Eastern Harbour Crossing Ordinance (Chapter 215). (L.N. 405 of 1990)
Commissioner for Transport	Eastern Harbour Crossing Road Tunnel Regulations (Chapter 215 subsidiary legislation D). (L.N. 405 of 1990)
Commissioner for Transport	Eastern Harbour Crossing Road Tunnel By-laws (Chapter 215 subsidiary legislation E). (L.N. 405 of 1990)
Commissioner for Transport	Ferry Services Ordinance (Chapter 104). (L.N. 315 of 1985)
Commissioner for Transport	Ferry Services Regulations (Chapter 104 subsidiary legislation A). (L.N. 158 of 1992)
Commissioner for Transport	Fixed Penalty (Criminal Proceedings) Ordinance (Chapter 240). (L.N. 315 of 1985)
Commissioner for Transport	Fixed Penalty (Traffic Contraventions) Ordinance (Chapter 237). (L.N. 315 of 1985)
Commissioner for Transport	Kowloon-Canton Railway Corporation Ordinance (Chapter 372). (L.N. 405 of 1990)
Commissioner for Transport	Kowloon-Canton Railway Corporation Regulations (Chapter 372 subsidiary legislation A). (L.N. 405 of 1990)
Commissioner for Transport	Motor Vehicles (First Registration Tax) Ordinance (Chapter 330). (L.N. 90 of 1967)
Commissioner for Transport	Motor Vehicles Insurance (Third Party Risks) Ordinance (Chapter 272). (L.N. 90 of 1967)
Commissioner for Transport	Public Bus Services Regulations (Chapter 230 subsidiary legislation A). (L.N. 405 of 1990)

Commissioner for Transport	Public Omnibus Services Ordinance (Chapter 230). (L.N. 60 of 1978)
Commissioner for Transport	Road Traffic Ordinance (Chapter 374). (L.N. 315 of 1985)
Commissioner for Transport	Road Traffic (Construction and Maintenance of Vehicles) Regulations (Chapter 374 subsidiary legislation A). (L.N. 315 of 1985)
Commissioner for Transport	Road Traffic (Driving Licences) Regulations (Chapter 374 subsidiary legislation B). (L.N. 315 of 1985)
Commissioner for Transport	Road Traffic (Expressway) Regulations (Chapter 374 subsidiary legislation Q). (L.N. 158 of 1992)
Commissioner for Transport	Road Traffic (Parking) Regulations (Chapter 374 subsidiary legislation C). (L.N. 315 of 1985)
Commissioner for Transport	Road Traffic (Parking on Private Roads) Regulations (Chapter 374 subsidiary legislation O). (L.N. 158 of 1992)
Commissioner for Transport	Road Traffic (Public Service Vehicles) Regulations (Chapter 374 subsidiary legislation D). (L.N. 315 of 1985)
Commissioner for Transport	Road Traffic (Registration and Licensing of Vehicles) Regulations (Chapter 374 subsidiary legislation E). (L.N. 315 of 1985)
Commissioner for Transport	Road Traffic (Safety Equipment) Regulations (Chapter 374 subsidiary legislation F). (L.N. 315 of 1985)
Commissioner for Transport	Road Traffic (Traffic Control) Regulations (Chapter 374 subsidiary legislation G). (L.N. 315 of 1985)
Commissioner for Transport	Road Traffic (Village Vehicles) Regulations (Chapter 374 subsidiary legislation N). (L.N. 405 of 1990)
Commissioner for Transport	Road Traffic (Driving-offence Points) Ordinance (Chapter 375). (L.N. 315 of 1985)
Commissioner for Transport	Road Tunnels (Government) Ordinance (Chapter 368). (L.N. 405 of 1990)
Commissioner for Transport	Road Tunnels (Government) Regulations (Chapter 368 subsidiary legislation A). (L.N. 405 of 1990)
Commissioner for Transport	Tate's Cairn Tunnel Ordinance (Chapter 393). (L.N. 405 of 1990)
Commissioner for Transport	Tate's Cairn Tunnel By-laws (Chapter 393 subsidiary legislation B). (L.N. 158 of 1992)
Commissioner for Transport	Tate's Cairn Tunnel Regulations (Chapter 393 subsidiary legislation A). (L.N. 158 of 1992)
Commissioner for Transport	Traffic Accident Victims (Assistance Fund) Ordinance (Chapter 229). (L.N. 315 of 1985)
Commissioner of Correctional Services	Training Centres Ordinance (Chapter 280). (L.N. 46 of 1981)
Commissioner of Customs and Excise	Control of Chemicals Ordinance (Chapter 145). (L.N. 51 of 1984; 64 of 1994 s. 18)
Commissioner of Customs and Excise	Copyright Ordinance (Chapter 528). (92 of 1997 s. 280)
Commissioner of Customs and Excise	Dutiable Commodities Ordinance (Chapter 109), except section 7. (L.N. 51 of 1984; L.N. 338 of 1987)
Commissioner of Customs and Excise	Dutiable Commodities Regulations (Chapter 109 subsidiary legislation A). (L.N. 51 of 1984)
Commissioner of Customs and Excise	Dutiable Commodities (Marking and Colouring of Hydrocarbon Oil) Regulations (Chapter 109 subsidiary legislation C), regulations 9 and 11. (L.N. 51 of 1984; L.N. 338 of 1987)
Commissioner of Customs and	Import and Export Ordinance (Chapter 60), sections 7, 12 and

Excise	27(3). (L.N. 51 of 1984)
Commissioner of Customs and Excise	Import and Export Ordinance (Chapter 60), sections 27(3B), 28(2A) and (10) and 29A(1). (L.N. 320 of 1993)
Commissioner of Customs and Excise	Import and Export Ordinance (Chapter 60), section 33A(1)(b). (L.N. 175 of 1997)
Commissioner of Customs and Excise	Import and Export (Carriage of Articles) Regulations (Chapter 60 subsidiary legislation I), regulation 4. (L.N. 176 of 1991)
Commissioner of Customs and Excise	Import and Export (Registration) Regulations (Chapter 60 subsidiary legislation E). (L.N. 51 of 1984)
Commissioner of Customs and Excise	Industrial Training (Clothing Industry) Ordinance (Chapter 318). (L.N. 51 of 1984)
Commissioner of Customs and Excise	Prevention of Copyright Piracy Ordinance (Chapter 544). (22 of 1998 s. 41)
Commissioner of Customs and Excise	Reserved Commodities Ordinance (Chapter 296), section 10. (L.N. 51 of 1984)
Commissioner of Customs and Excise	Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations (Chapter 296 subsidiary legislation A), regulations 7A and 9(2). (L.N. 51 of 1984)
Commissioner of Customs and Excise	Smoking (Public Health) Ordinance (Chapter 371), section 10A(4). (L.N. 225 of 1989)
Commissioner of Customs and Excise	Trade Descriptions Ordinance (Chapter 362), sections 16(3), 16C(1), (2) and (3) and 30(2), (3) and (5). (L.N. 338 of 1987)
Commissioner of Mines	Mining Ordinance (Chapter 285), sections 13, 18, 20, 21, 31 and 37. (L.N. 6 of 1967)
Director of Accounting Services	Waterworks Regulations (Chapter 102 subsidiary legislation A), regulation 50(2) and (3). (L.N. 221 of 1977)
Director of Agriculture, Fisheries and Conservation (L.N. 331 of 1999)	Country Parks and Special Areas Regulations (Chapter 208 subsidiary legislation A), regulations 4(1) and (2)(a), 5(1) and (2)(b), 8(1), 9(1), 10(1)(a) and (b) and (2), 11(1), (2) and (3)(a), 13(2), 14, 15(4) and 18(5). (L.N. 381 of 1989)
Director of Agriculture, Fisheries and Conservation (L.N. 331 of 1999)	Country Parks and Special Areas Regulations (Chapter 208 subsidiary legislation A), regulation 10(1)(c) and (d). (L.N. 391 of 1982)
Director of Agriculture, Fisheries and Conservation (L.N. 331 of 1999)	Dairies Regulations (Chapter 139 subsidiary legislation D), regulations 3, 8, 9, 11, 15, 16(2), 18, 19(2)(f), 21(3), 26(1) and 29(2). (L.N. 153 of 1967)
Director of Agriculture, Fisheries and Conservation (L.N. 331 of 1999)	Forests and Countryside Ordinance (Chapter 96), sections 22(5) and 23. (L.N. 220 of 1993)
Director of Agriculture, Fisheries and Conservation (L.N. 331 of 1999)	Kadoorie Agricultural Aid Loan Fund Ordinance (Chapter 1080), section 7. (L.N. 397 of 1996)
Director of Agriculture, Fisheries and Conservation (L.N. 331 of 1999)	Marine Parks Ordinance (Chapter 476), section 22(1). (L.N. 67 of 1997)
Director of Agriculture, Fisheries and Conservation (L.N. 331 of 1999)	Marine Parks and Marine Reserves Regulation (Chapter 476 subsidiary legislation A), section 17. (L.N. 67 of 1997)
Director of Agriculture, Fisheries and Conservation (L.N. 331 of 1999)	Pearl Culture (Control) Ordinance (Chapter 307), section 3. (L.N. 48 of 1967)
Director of Agriculture, Fisheries	Pesticides Ordinance (Chapter 133), the whole Ordinance except

and Conservation (L.N. 331 of 1999)	sections 5(4), 6(c), 10, 11 and 14. (L.N. 304 of 1977; 79 of 1990 s. 21)
Director of Agriculture, Fisheries and Conservation (L.N. 331 of 1999)	Pesticides Regulations (Chapter 133 subsidiary legislation A). (L.N. 411 of 1992)
Director of Agriculture, Fisheries and Conservation (L.N. 331 of 1999)	Plant (Importation and Pest Control) Ordinance (Chapter 207). (L.N. 360 of 1993)
Director of Agriculture, Fisheries and Conservation (L.N. 331 of 1999)	Public Health (Animals and Birds) Ordinance (Chapter 139), sections 6, 7 and 10(2). (L.N. 48 of 1967)
Director of Agriculture, Fisheries and Conservation (L.N. 331 of 1999)	Public Health (Animals and Birds) (Animal Traders) Regulations (Chapter 139 subsidiary legislation B), regulations 5(1), 5(3) and 7. (L.N. 94 of 1978)
Director of Agriculture, Fisheries and Conservation (L.N. 331 of 1999)	Public Health (Animals and Birds) (Exhibitions) Regulations (Chapter 139 subsidiary legislation F), regulations 4(1), 4(3), 6(a), 6(b), 8(1) and 8(3). (L.N. 94 of 1978)
Director of Agriculture, Fisheries and Conservation (L.N. 331 of 1999)	Public Health (Animals and Birds) (Keeping of Cattle, Sheep and Goats) Regulations (Chapter 139 subsidiary legislation C), regulations 4, 11(1) and 13. (L.N. 153 of 1967)
Director of Agriculture, Fisheries and Conservation (L.N. 331 of 1999)	Public Health (Animals and Birds) Regulations (Chapter 139 subsidiary legislation A), regulations 30, 34, 35, 37, 44 and 51. (L.N. 153 of 1967)
Director of Agriculture, Fisheries and Conservation (L.N. 331 of 1999)	Public Health (Animals) (Boarding Establishments) Regulations (Chapter 139 subsidiary legislation I), regulations 5(1), 5(3) and 7. (L.N. 94 of 1978)
Director of Agriculture, Fisheries and Conservation (L.N. 331 of 1999)	Public Health (Animals) (Riding Establishments) Regulations (Chapter 139 subsidiary legislation J), regulations 5(1), 5(3) and 7. (L.N. 94 of 1978)
Director of Agriculture, Fisheries and Conservation (L.N. 331 of 1999)	Wild Animals Protection Ordinance (Chapter 170), section 13. (L.N. 197 of 1979)
Director of Buildings	Hong Kong Airport (Control of Obstructions) Ordinance (Chapter 301), sections 5, 7(1), 13, 14(1), 15(1), 2(c)(ii) and (8), 16(1), (3), (6), (8) and (9), 17, 18(2) and 20(g). (L.N. 303 of 1993)
Director of Buildings as Building Authority	Buildings Ordinance (Chapter 123). (L.N. 303 of 1993)
Director of Buildings as Building Authority	Child Care Services Ordinance (Chapter 243), section 7(1)(b)(ii). (L.N. 303 of 1993; 32 of 2000 s. 26)
Director of Buildings as Building Authority	Education Ordinance (Chapter 279), section 12(1)(d). (L.N. 303 of 1993)
Director of Buildings as Building Authority	Kowloon-Canton Railway Corporation Ordinance (Chapter 372), section 35(1). (L.N. 303 of 1993)
Director of Buildings as Building Authority	Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Chapter 276), section 15(1). (L.N. 303 of 1993)
Director of Buildings as Building Authority	Roads (Works, Use and Compensation) Ordinance (Chapter 370). (L.N. 303 of 1993)
Director of Civil Engineering and Development (L.N. 6 of 2005)	Ferry Services Ordinance (Chapter 104), sections 16(1)(a), 20(1) and 28(4). (L.N. 133 of 1986)
Director of Civil Engineering and Development (L.N. 6 of 2005)	Sand Ordinance (Chapter 147), sections 2 and 3. (L.N. 133 of 1986)

Director of Electrical and Mechanical Services	Aerial Ropeways (Safety) Ordinance (Chapter 211). (L.N. 133 of 1986)
Director of Electrical and Mechanical Services	Electricity Ordinance (Chapter 406). (L.N. 133 of 1986; 16 of 1990 s. 61)
Director of Electrical and Mechanical Services	Evidence Ordinance (Chapter 8), section 28(1)(b)(i). (L.N. 133 of 1986)
Director of Electrical and Mechanical Services	Peak Tramway Ordinance (Chapter 265), section 14. (L.N. 133 of 1986)
Director of Electrical and Mechanical Services	Peak Tramway Rules (Chapter 265 subsidiary legislation), rule 22. (L.N. 133 of 1986)
Director of Electrical and Mechanical Services	Tramway Ordinance (Chapter 107), sections 25 and 33. (L.N. 133 of 1986)
Director of Environmental Protection	Ozone Layer Protection Ordinance (Chapter 403). (L.N. 202 of 1989)
Director of Environmental Protection	Waste Disposal Ordinance (Chapter 354), sections 16(1), 17, 19(1), 20 and 36(3). (L.N. 84 of 1986)
Director of Health	Animal (Control of Experiments) Ordinance (Chapter 340). (L.N. 92 of 1989)
Director of Health	Undesirable Medical Advertisements Ordinance (Chapter 231). (L.N. 92 of 1989)
Director of Highways	Peak Tramway Ordinance (Chapter 265). (L.N. 133 of 1986)
Director of Highways	Peak Tramway Rules (Chapter 265 subsidiary legislation). (L.N. 133 of 1986)
Director of Highways	Public Lighting Ordinance (Chapter 105). (L.N. 133 of 1986)
Director of Highways	Road Traffic Ordinance (Chapter 374). (L.N. 133 of 1986)
Director of Highways	Road Traffic (Expressway) Regulations (Chapter 374 subsidiary legislation Q). (L.N. 158 of 1992)
Director of Highways	Road Traffic (Traffic Control) Regulations (Chapter 374 subsidiary legislation G). (L.N. 133 of 1986)
Director of Highways	Tramway Ordinance (Chapter 107). (L.N. 133 of 1986)
Director of Immigration	Immigration Ordinance (Chapter 115). (L.N. 67 of 1972)
Director of Lands	Land (Miscellaneous Provisions) Ordinance (Chapter 28). (L.N. 303 of 1993; 29 of 1998 s. 2)
Director of Lands	Lands Resumption Ordinance (Chapter 124). (L.N. 303 of 1993; 29 of 1998 s. 2)
Director of Lands	Government Leases Ordinance (Chapter 40). (L.N. 303 of 1993; 29 of 1998 s. 2)
Director of Lands	Government Rights (Re-entry and Vesting Remedies) Ordinance (Chapter 126), section 7(3). (L.N. 423 of 1993; 29 of 1998 s. 2)
Director of Lands	Foreshore and Sea-bed (Reclamations) Ordinance (Chapter 127). (L.N. 303 of 1993)
Director of Lands	Hong Kong Airport (Control of Obstructions) Ordinance (Chapter 301), sections 18(2), 20(g), 23(1) and (2), 24 and 25(2). (L.N. 303 of 1993)
Director of Lands	Mining Ordinance (Chapter 285). (L.N. 303 of 1993)
Director of Lands	Road Traffic Ordinance (Chapter 374), sections 123(3) and (4) and 124(1) and (2). (L.N. 303 of 1993)
Director of Marine	Dangerous Goods (Shipping) Regulations (Chapter 295 subsidiary legislation C), regulations 3, 5(1), 6, 9, 12, 13, 14, 16, 17, 19 and 21. (L.N. 6 of 1967)
Director of Marine	Merchant Shipping (Safety) Ordinance (Chapter 369), sections 31, 38(4), 51(2) and (3), 57(2) and 63. (L.N. 365 of 1981)
Director of Marketing	Agricultural Products (Marketing) Ordinance (Chapter 277). (L.N. 239 of 1988)

Director of Marketing	Marine Fish (Marketing) Ordinance (Chapter 291). (L.N. 239 of 1988)
Director of Social Welfare	Juvenile Offenders Ordinance (Chapter 226). (L.N. 79 of 1973)
Director of Social Welfare	Offences against the Person Ordinance (Chapter 212), section 44(4). (L.N. 6 of 1967)
Director of Social Welfare	Probation of Offenders Ordinance (Chapter 298). (L.N. 79 of 1973)
Director of Social Welfare	Reformatory Schools Ordinance (Chapter 225). (L.N. 79 of 1973)
Director-General of Civil Aviation (L.N. 326 of 2000)	Air Passenger Departure Tax Ordinance (Chapter 140). (L.N. 191 of 1983)
Director-General of Trade and Industry (L.N. 292 of 1989; L.N. 173 of 2000)	Export (Certificates of Origin and Commonwealth Preference Certificates) Regulations (Chapter 60 subsidiary legislation), regulations 6(2) and 8(1). (L.N. 132 of 1986)
Director-General of Trade and Industry (L.N. 292 of 1989; L.N. 173 of 2000)	Export (Certificates of Origin and Commonwealth Preference Certificates) Regulations (Chapter 60 subsidiary legislation), regulations 7(1)-(4), 8(3), 9(2) and 11(1)(c). (L.N. 51 of 1984)
Director-General of Trade and Industry (L.N. 292 of 1989; L.N. 173 of 2000)	Import and Export Ordinance (Chapter 60), sections 9(3) and 36(2). (L.N. 51 of 1984)
Director-General of Trade and Industry (L.N. 173 of 2000)	Import and Export Ordinance (Chapter 60), section 33A(1)(b). (L.N. 396 of 1996)
Director-General of Trade and Industry (L.N. 292 of 1989; L.N. 173 of 2000)	Import and Export (Fees) Regulations (Chapter 60 subsidiary legislation B). (L.N. 51 of 1984)
Director-General of Trade and Industry (L.N. 292 of 1989; L.N. 173 of 2000)	Import and Export (General) Regulations (Chapter 60 subsidiary legislation A), regulation 6(3) and (4). (L.N. 132 of 1986)
Director-General of Trade and Industry (L.N. 292 of 1989; L.N. 173 of 2000)	Import and Export (Strategic Commodities) Regulations (Chapter 60 subsidiary legislation G), regulation 2. (L.N. 51 of 1984)
Director-General of Trade and Industry (L.N. 292 of 1989; L.N. 173 of 2000)	Import (Radiation) (Prohibition) Regulations (Chapter 60 subsidiary legislation K). (L.N. 51 of 1984)
Director-General of Trade and Industry (L.N. 292 of 1989; L.N. 173 of 2000)	Reserved Commodities Ordinance (Chapter 296), section 6. (L.N. 51 of 1984)
Director-General of Trade and Industry (L.N. 292 of 1989; L.N. 173 of 2000)	Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations (Chapter 296 subsidiary legislation A). (L.N. 51 of 1984)
Director-General of Trade and Industry (L.N. 292 of 1989; L.N. 173 of 2000)	Reserved Commodities (Control of Sales by Wholesale) Regulations (Chapter 296 subsidiary legislation B). (L.N. 51 of 1984)
Financial Secretary	Companies Ordinance (Chapter 32), sections 124(2), 128(3), 129(3) and 129A(2); and paragraphs 6(b), 13(2), 18(4), 27(1) and 28(3) of the Tenth Schedule, only. (L.N. 86 of 1978; 12 of 2005 s. 20)
Financial Secretary	Companies Ordinance (Chapter 32), section 157E(4)(a). (L.N. 57 of 1989)
Financial Secretary	Customs and Excise Service (Welfare Fund) Regulation (Chapter 342 subsidiary legislation C), section 8. (L.N. 389 of 1990; 10 of 2005 s. 220)

Financial Secretary	Fire Services Department (Welfare Fund) Regulations (Chapter 95 subsidiary legislation), regulation 8. (L.N. 389 of 1990)
Financial Secretary	Government Lotteries Ordinance (Chapter 334). (L.N. 254 of 1973)
Financial Secretary	The Hong Kong Association of Banks Ordinance (Chapter 364), section 12(1). (L.N. 499 of 1993)
Financial Secretary	Hong Kong Export Credit Insurance Corporation Ordinance (Chapter 1115), section 12. (L.N. 92 of 1979)
Financial Secretary	Hong Kong Export Credit Insurance Corporation Ordinance (Chapter 1115), section 17(1). (L.N. 234 of 1980)
Financial Secretary	Hong Kong Export Credit Insurance Corporation Ordinance (Chapter 1115), section 24(2). (L.N. 512 of 1996)
Financial Secretary	Hong Kong Tourism Board Ordinance (Chapter 302), section 7(d). (3 of 2001 s. 43)
Financial Secretary	Immigration Service (Welfare Fund) Regulations (Chapter 331 subsidiary legislation), regulation 8. (L.N. 389 of 1990)
Financial Secretary	Legal Tender Notes Issue Ordinance (Chapter 65), section 3(2), (3) and (5). (L.N. 258 of 1996)
Financial Secretary	Money Lenders Ordinance (Chapter 163), sections 33A and 33B. (L.N. 160 of 1989)
Financial Secretary	Police (Welfare Fund) Regulations (Chapter 232 subsidiary legislation), regulation 9. (L.N. 389 of 1990)
Financial Secretary	Prison Rules (Chapter 234 subsidiary legislation A), rules 263 and 265. (L.N. 389 of 1990)
Financial Secretary	Trading Funds Ordinance (Chapter 430), section 3(1). (L.N. 36 of 1995)
Financial Secretary	Trading Funds Ordinance (Chapter 430), section 8(2). (L.N. 529 of 1994)
Gas Authority	Gas Safety Ordinance (Chapter 51). (49 of 1990 s. 38)
Insurance Authority	Insurance Companies Ordinance (Chapter 41). (L.N. 182 of 1990)
Land Registrar	Government Rights (Re-entry and Vesting Remedies) Ordinance (Chapter 126), sections 11(1) and (3) and 12(1) and (3). (L.N. 140 of 1993; 29 of 1998 s. 2)
Land Registrar	Land Registration Ordinance (Chapter 128). (L.N. 140 of 1993)
Land Registrar	Building Management Ordinance (Chapter 344). (27 of 1993 s. 56)
Monetary Authority	Crimes Ordinance (Chapter 200), sections 103(1) and 104(1). (L.N. 102 of 1995)
Permanent Secretary for Education (L.N. 130 of 2007)	Inland Revenue Ordinance (Chapter 112), sections 16B and 16C. (L.N. 6 of 1967; 3 of 2003 s. 41)
Permanent Secretary for Education (L.N. 130 of 2007)	Post Secondary Colleges Ordinance (Chapter 320), sections 3, 8, 9 and 10. (L.N. 6 of 1967; 3 of 2003 s. 41)
Permanent Secretary for Education (L.N. 130 of 2007)	Post Secondary Colleges Ordinance (Chapter 320), sections 11 and 12(2). (L.N. 48 of 1967; 3 of 2003 s. 41)
Principal Probation Officer	Probation of Offenders Rules (Chapter 298 subsidiary legislation A), rules 15, 20(2) and 21 only. (L.N. 213 of 1979)
Registrar of Companies	Companies Ordinance (Chapter 32). (L.N. 141 of 1993)
Registrar of Companies	Limited Partnerships Ordinance (Chapter 37). (L.N. 141 of 1993)



Registrar of Companies	Registered Trustees Incorporation Ordinance (Chapter 306). (L.N. 141 of 1993)
Registrar of Companies	Trustee Ordinance (Chapter 29). (L.N. 141 of 1993)
Registrar of Co-operative Societies	Co-operative Societies Ordinance (Chapter 33). (L.N. 8 of 1973)
Registrar of Co-operative Societies	J. E. Joseph Trust Fund Ordinance (Chapter 1067), sections 3, 4, 5, 6 and 7. (L.N. 398 of 1996)
Registrar of Credit Unions	Credit Unions Ordinance (Chapter 119). (L.N. 239 of 1988)
Registrar of Money Lenders	Money Lenders Ordinance (Chapter 163). (L.N. 357 of 1980)
Registrar of Occupational Retirement Schemes	Occupational Retirement Schemes Ordinance (Chapter 426). (L.N. 454 of 1993)
Secretary for Broadcasting, Culture and Sport (L.N. 372 of 1996)	Books Registration Ordinance (Chapter 142). (L.N. 403 of 1995)
Secretary for Home Affairs	Clubs (Safety of Premises) Ordinance (Chapter 376). (L.N. 91 of 1992)
Secretary for Home Affairs	Heung Yee Kuk Ordinance (Chapter 1097), section 3(3). (L.N. 235 of 1995)
Secretary for Home Affairs (L.N. 262 of 1989)	New Territories Ordinance (Chapter 97), section 9(2), for the purposes of section 19. (L.N. 188 of 1973)
Secretary for Security	Auxiliary Medical Service Ordinance (Chapter 517). (57 of 1997 s. 34)
Secretary for Security	Civil Aid Service Ordinance (Chapter 518). (58 of 1997 s. 34)
Secretary for Security	Essential Services Corps Ordinance (Chapter 197), the whole Ordinance. (L.N. 158 of 1977)
Secretary for Security	Immigration Ordinance (Chapter 115), sections 29(1), (2) and (4), 32(2), (3) and (4)(a), 34(b). (L.N. 102 of 1980)
Secretary for Security	Immigration Ordinance (Chapter 115), section 32(2A). (L.N. 307 of 1980)
Secretary for Security	Public Order Ordinance (Chapter 245), section 31(6)(i) only. (L.N. 158 of 1977)
Secretary for Transport and Housing (L.N. 106 of 2002; L.N. 130 of 2007)	Eastern Harbour Crossing Ordinance (Chapter 215). (L.N. 308 of 1988)
Secretary for Transport and Housing (L.N. 106 of 2002; L.N. 130 of 2007)	Merchant Shipping (Safety) Ordinance (Chapter 369), section 5. (L.N. 94 of 1984)
Secretary for Transport and Housing (L.N. 106 of 2002; L.N. 130 of 2007)	Roads (Works, Use and Compensation) Ordinance (Chapter 370). (L.N. 133 of 1986)
Secretary for Transport and Housing (L.N. 106 of 2002; L.N. 130 of 2007)	Tate's Cairn Tunnel Ordinance (Chapter 393). (L.N. 26 of 1989)
(L.N. 280 of 1992; L.N. 84 of 1993; L.N. 303 of 1993; 94 of 1993 s. 47; 13 of 1995 s. 2; 40 of 1995 s. 10; 44 of 1995 s. 143; L.N. 198 of 1999; 78 of 1999 s. 7; 32 of 2000 s. 48; 5 of 2001 s. 40; 5 of 2002 s. 407; L.N. 25 of 2004; L.N. 125 of 2004; 30 of 2004 s. 3; 3 of 2006 s. 56; 17 of 2006 s. 23 )	

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Note: Please also see the Specifications of Public Offices in L.N. 282 of 1998, L.N. 320 of 1998, L.N. 343 of 1998, L.N. 324 of 1999 (repealed L.N. 125 of 2004), L.N. 82 of 2001, L.N. 93 of 2001, 5 of 2001 s. 40, L.N. 158 of 2002, L.N. 192 of 2003, L.N. 21 of 2004, L.N. 6 of 2005, 21 of

2005 s. 29, L.N. 202 of 2005, 23 of 2005 s. 26, L.N. 30 of 2007 and L.N. 99 of 2009. They were made under s. 43 of Cap 1 after 1 July 1997. Their particulars are as follows-

	Public Office	Ordinance or section of Ordinance for which specified
L.N. 282 of 1998	Director of Environmental Protection Director of Environmental Protection	Environmental Impact Assessment Ordinance (Chapter 499).  Environmental Impact Assessment (Appeal Board) Regulation (Chapter 499 subsidiary legislation A).
L.N. 320 of 1998	Secretary for Security	Immigration Ordinance (Chapter 115), section 35(2).
L.N. 343 of 1998	Director of Intellectual Property Director of Intellectual Property as Registrar of Trade Marks Director of Intellectual Property as Registrar of Patents  Director of Intellectual Property as Registrar of Designs	Director of Intellectual Property (Establishment) Ordinance (Chapter 412). Trade Marks Ordinance (Chapter 559). Trade Marks Rules (Chapter 559 subsidiary legislation A). (35 of 2000 s. 98) Patents Ordinance (Chapter 514). Patents (Transitional Arrangements) Rules (Chapter 514 subsidiary legislation B). Patents (General) Rules (Chapter 514 subsidiary legislation C). Registered Designs Ordinance (Chapter 522). Registered Designs Rules (Chapter 522 subsidiary legislation A).
L.N. 82 of 2001	Director-General of Trade and Industry	Import and Export (General) Regulations (Chapter 60 subsidiary legislation A), regulations 5AB(1), (2), (3), (4) and (5), 5AC(1) and (3), 5AD(1) and (2) and 5AE(1)(c) and item 1 of Part I and item 13 of Part IV of the Fifth Schedule.
L.N. 93 of 2001	Chief Secretary for Administration	Scout Association of Hong Kong Ordinance (Chapter 1005), section 9(3).
5 of 2001 s. 40	Financial Secretary	Hong Kong Science and Technology Parks Corporation Ordinance (Chapter 565), sections 23(6) and 24.
L.N. 158 of 2002	Secretary for Education  Secretary for Labour and Welfare	Non-local Higher and Professional Education (Regulation) Ordinance (Chapter 493), section 8(1)(a)(ii)(B). (L.N. 130 of 2007) Hong Kong Council for Accreditation of Academic and Vocational Qualifications Ordinance (Chapter 1150), sections 4(1)(g) and (2), 5(2)(e), (ea), (g) and (l), 9(1), 12(b), 13(1), (2) and (3) and 17. (6 of 2007 s. 53; L.N. 130 of 2007) Employees Retraining Ordinance (Chapter 423), sections 9(2) and (3) and

		14(4). (L.N. 130 of 2007)
L.N. 192 of 2003	Secretary for Home Affairs  Secretary for Constitutional and Mainland Affairs	New Territories Ordinance (Chapter 97), sections 15, 16 and 18. Hotel and Guesthouse Accommodation Ordinance (Chapter 349), sections 19(1) and 20(1), (2)(b), (3)(b) and (4). New Territories Land (Exemption) Ordinance (Chapter 452), section 12. Heung Yee Kuk Ordinance (Chapter 1097), section 3(2)(c) and First Schedule (paragraph 6) and Second Schedule (paragraph 5(2)). Sex Discrimination Ordinance (Chapter 480), section 65(3) and Schedule 6 (sections 16(2) and (3) and 17(2)). (L.N. 130 of 2007) Personal Data (Privacy) Ordinance (Chapter 486), section 14(6) and Schedule 2 (sections 2(2) and (3) and 3(2)). (L.N. 130 of 2007)
L.N. 21 of 2004	Collector of Stamp Revenue	Betting Duty Ordinance (Chapter 108), sections 6L(2), 6M(3), 6N(4), 6O(1), 6P, 6Q, 6R(1), 6S(4) and (7)(b), 6T(4)(a), 6V(2), (4) and (6)(b), 6ZL(1), 6ZM(1) and 7(3). Betting Duty Regulations (Chapter 108 subsidiary legislation A), regulation 3(4).
L.N. 6 of 2005	Commissioner of Mines	Dangerous Goods (Government Explosives Depots) Regulations (Chapter 295 subsidiary legislation D), regulations 3(2) and 7.
21 of 2005 s. 29	Secretary for Home Affairs	Probate and Administration Ordinance (Chapter 10), sections 60B, 60C, 60D, 60E, 60F, 60G and 60K.
L.N. 202 of 2005	Chief Secretary for Administration	Church of England Trust Ordinance (Chapter 1014), sections 3(2) and 4(1). Hong Kong Chinese Christian Churches Union

		<p>Incorporation Ordinance (Chapter 1025), section 3(1) and (2).</p> <p>Chinese Rhenish Church, Hong Kong Synod, Incorporation Ordinance (Chapter 1060), section 3(1) and (2).</p> <p>Hong Kong Baptist Church Incorporation Ordinance (Chapter 1078), section 10(1).</p>
23 of 2005 s. 26	Secretary for Security	Marriage Ordinance (Chapter 181), section 5J(7).
L.N. 30 of 2007	Collector of Stamp Revenue	<p>Betting Duty Ordinance (Cap 108), sections 6GH(3), 6GI(5), 6GJ(1), 6GK(1), (3)(b) and (4), 6GL(2), (3) and (5), 6GM(1), 6GN(4) and (8)(b), 6GO(4)(a), 6ZO(2), (3), (4) and (6)(a).</p> <p>Betting Duty Regulations (Cap 108 sub. leg. A), regulation 3AA(3)(b) and (5).</p>
L.N. 99 of 2009	<p>Commissioner for Transport</p> <p>Director of Highways</p>	<p>Tsing Sha Control Area Ordinance (Cap 594).</p> <p>Tsing Sha Control Area (General) Regulation (Cap 594 sub. leg. A).</p> <p>Tsing Sha Control Area (Tolls, Fees and Charges) Regulation (Cap 594 sub. leg. B).</p> <p>Tsing Sha Control Area Ordinance (Cap 594).</p> <p>Tsing Sha Control Area (General) Regulation (Cap 594 sub. leg. A).</p>

Chapter 121	BUILDINGS ORDINANCE (APPLICATION TO THE NEW TERRITORIES) ORDINANCE	Gazette Number	Version Date
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Section 7	Effect of certificate of exemption		30/06/1997
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(1) Subject to subsection (2) and to compliance with any conditions imposed by the Director under section 9-

- (a) sections 4, 9, 14, 21 and 30 of the Buildings Ordinance (Cap 123) and the regulations made under that Ordinance shall not apply-
  - (i) in respect of building works or site formation works; and
  - (ii) for any building, specified in a certificate of exemption; and
- (b) the provisions and regulations mentioned in paragraph (a) and section 28 of the Buildings Ordinance (Cap 123) shall not apply-
  - (i) in respect of any drainage works; and
  - (ii) for any building, specified in a certificate of exemption,
 carried out by or on behalf of the person named in that certificate of exemption.

(2) Subsection (1) shall not apply in relation to a certificate of exemption issued under section 4 or 5 in respect of a building of greater dimensions than the building described-

- (a) in the case of-
  - (i) a certificate of exemption in respect of new housing;
  - (ii) a certificate of exemption in respect of community use; or
  - (iii) a certificate of exemption granted under section 4, in Part I of the Schedule;
- (b) in the case of a certificate of exemption in respect of agricultural use, in Part II of the Schedule; or
- (c) in the case of a certificate of exemption in respect of replacement housing, in Part III of the Schedule.

(Enacted 1987)

Chapter 201	PREVENTION OF BRIBERY ORDINANCE	Gazette Number	Version Date
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Schedule 1	PUBLIC BODIES	L.N. 36 of 2009	01/06/2009
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[sections 2(1) & 35]  
(Amended 20 of 1999 s. 6)

1. Hong Kong Telecom International Limited. (Replaced 20 of 1999 s. 6)
2. China Light and Power Company Limited.
3. (Repealed 20 of 1999 s. 6)
4. The Chinese University of Hong Kong. (Replaced 20 of 1999 s. 6)
5. Hong Kong Arts Development Council. (Replaced 26 of 1995 s. 19)
6. (Repealed L.N. 198 of 1999)
7. Fish Marketing Organization.
8. Hong Kong and China Gas Company Limited.
9. Hong Kong and Yaumati Ferry Company Limited.
10. Hong Kong Air Cargo Terminals Limited.
11. Hong Kong Building and Loan Agency.
12. Hong Kong Commercial Broadcasting Company Limited.
13. Hong Kong Electric Company Limited.
14. Hong Kong Export Credit Insurance Corporation.
15. Hong Kong Housing Authority.
16. Hong Kong Housing Society.
17. (Repealed 50 of 1987 s. 13)
18. The Hong Kong Polytechnic University. (Replaced 94 of 1994 s. 23)
19. Hong Kong Productivity Council.
20. Hong Kong Settlers Housing Corporation Limited.
21. Hong Kong Telephone Company Limited.
22. Hong Kong Tourism Board. (Replaced 3 of 2001 s. 45)
23. Hong Kong Trade Development Council.
24. Hong Kong Tramways Limited.
25. Kowloon Motor Bus Company (1933) Limited.
26. (Repealed L.N. 249 of 1990)
27. Ocean Park Corporation. (Amended 35 of 1987 s. 40)
28. Peak Tramways Company Limited.
29. Asia Television Limited. (Replaced L.N. 31 of 1983)
30. Hong Kong Jockey Club. (Amended 20 of 1999 s. 6)
31. The Hong Kong Jockey Club (Charities) Limited. (Replaced L.N. 512 of 1994)
32. "Star" Ferry Company Limited.
33. Television Broadcasts Limited.
34. The Community Chest of Hong Kong.
35. University of Hong Kong.
36. Vegetable Marketing Organization.

37. MTR Corporation Limited. (Added 36 of 1975 s. 31. Amended 13 of 2000 s. 65)
38. (Repealed 5 of 2001 s. 40)
39. The Hong Kong Examinations and Assessment Authority. (Added 23 of 1977 s. 17. Amended 23 of 2002 s. 26)
40. Consumer Council. (Added 56 of 1977 s. 22)
41. (Repealed 20 of 1999 s. 6)
42. The Vocational Training Council. (Added 6 of 1982 s. 25)
43. The Kowloon-Canton Railway Corporation. (Added 73 of 1982 s. 39)
44. New Lantau Bus Company (1973) Limited. (Added L.N. 160 of 1983)
45. Hong Kong Baptist University. (Added 50 of 1983 s. 34. Amended 93 of 1994 s. 39)
46. City University of Hong Kong. (Added 65 of 1983 s. 25. Amended 92 of 1994 s. 32)
47. The Hong Kong Academy for Performing Arts. (Added 38 of 1984 s. 28)
48. The Hong Kong University of Science and Technology. (Added 47 of 1987 s. 25)
49. Broadcasting Authority. (Added 49 of 1987 s. 17)
50. Hong Kong Council on Smoking and Health. (Added 56 of 1987 s. 21)
51. Urban Renewal Authority. (Replaced 63 of 2000 s. 38)
52. Securities and Futures Commission. (Added 10 of 1989 Schedule 2)
53. The Open University of Hong Kong. (Replaced 50 of 1997 s. 29)
54. (Repealed 11 of 2004 s. 17)
55. Travel Industry Council of Hong Kong. (Added L.N. 62 of 1990)
56. (Repealed 20 of 1999 s. 6)
57. Hong Kong Council for Accreditation of Academic and Vocational Qualifications. (Replaced 6 of 2007 s. 50)
58. The Hospital Authority (including any committee established by the Hospital Authority). (Added 68 of 1990 s. 24)
59. The Airport Authority. (Replaced 71 of 1995 s. 49)
60. Metro Broadcast Corporation Limited. (Added L.N. 184 of 1991)
61. Hong Kong Academy of Medicine. (Added 55 of 1992 s. 16)
62. Lingnan University. (Added 72 of 1992 s. 29. Replaced 54 of 1999 s. 29)
63. Citybus Limited. (Added L.N. 330 of 1992)
64. New Hong Kong Tunnel Company Limited. (Added L.N. 382 of 1992)
65. Tate's Cairn Tunnel Company Limited. (Added L.N. 382 of 1992)
66. (Repealed 5 of 2001 s. 40)
67. (Repealed 134 of 1997 s. 85)
68. Tradelink Electronic Commerce Limited. (Replaced L.N. 125 of 1998)
69. Travel Industry Compensation Fund Management Board. (Added 51 of 1993 s. 8)
70. Western Harbour Tunnel Company Limited. (Added 72 of 1993 s. 71)
71. Wharf Cable Limited. (Added L.N. 384 of 1993)
72. The Legislative Council Commission. (Added 14 of 1994 s. 24)
73. The Hong Kong Institute of Education. (Added 16 of 1994 s. 25)
74. Hong Kong Quality Assurance Agency. (Added L.N. 409 of 1994)
75. Equal Opportunities Commission. (Added 67 of 1995 s. 91)
76. The Security and Guarding Services Industry Authority. (Added 97 of 1994 s. 34)
77. Legal Aid Services Council. (Added 17 of 1996 s. 14)
78. Route 3 (CPS) Company Limited. (Added 33 of 1995 s. 65)
79. Privacy Commissioner for Personal Data. (Added 81 of 1995 s. 72)
80. Authorized Persons Registration Committee. (Added 54 of 1996 s. 27)
81. Structural Engineers Registration Committee. (Added 54 of 1996 s. 27)
82. Contractors Registration Committee. (Added 54 of 1996 s. 27)
83. The Estate Agents Authority. (Added 48 of 1997 s. 57)
84. Long Win Bus Company Limited. (Replaced 20 of 1999 s. 6)
- 84A. Long-term Prison Sentences Review Board. (Added 86 of 1997 s. 44. Amended 20 of 1999 s. 6)
85. Electoral Affairs Commission. (Added 129 of 1997 s. 24)
86. Mandatory Provident Fund Schemes Authority. (Added 4 of 1998 s. 8)
87. New World First Bus Services Limited. (Added L.N. 239 of 1998)

88. The Hong Kong Mortgage Corporation Limited. (Added L.N. 313 of 1998)
89. Hong Kong Note Printing Limited. (Added L.N. 313 of 1998)
90. Exchange Fund Investment Limited. (Added L.N. 16 of 1999)
91. The Stock Exchange of Hong Kong Limited. (Added 20 of 1999 s. 6)
92. Hong Kong Futures Exchange Limited. (Added 20 of 1999 s. 6)
93. Hong Kong Securities Clearing Company Limited. (Added 20 of 1999 s. 6)
94. The SEHK Options Clearing House Limited. (Added 20 of 1999 s. 6)
95. HKFE Clearing Corporation Limited. (Added 20 of 1999 s. 6)
96. Hong Kong Exchanges and Clearing Limited. (Added 12 of 2000 s. 23)
97. Hong Kong Science and Technology Parks Corporation. (Added 5 of 2001 s. 40)
98. The Ombudsman. (Added 30 of 2001 s. 24)
- \*99. A company recognized as an investor compensation company under section 79(1) of the Securities and Futures Ordinance (Cap 571). (Added L.N. 226 of 2002 and 5 of 2002 s. 407)
100. Construction Workers Registration Authority. (Added 18 of 2004 s. 66)
101. Hong Kong Deposit Protection Board. (Added 7 of 2004 s. 55)
102. Geotechnical Engineers Registration Committee. (Added 15 of 2004 s. 61)
103. Hong Kong Sports Institute Limited. (Added L.N. 4 of 2005)
104. Construction Industry Council. (Added 12 of 2006 s. 84)
105. Construction Industry Training Board. (Added 12 of 2006 s. 84)
106. Financial Reporting Council. (Added 18 of 2006 s. 79)
107. Commissioner on Interception of Communications and Surveillance. (Added 20 of 2006 s. 68)
108. Hong Kong IEC Limited. (Added L.N. 233 of 2006)
109. Independent Police Complaints Council. (Added 33 of 2008 s. 47)
110. West Kowloon Cultural District Authority (including any committees established under the West Kowloon Cultural District Authority Ordinance (Cap 601)). (Added 27 of 2008 s. 42)
111. Any entity established under section 5(2)(h) of the West Kowloon Cultural District Authority Ordinance (Cap 601). (Added 27 of 2008 s. 42)
112. Wave Media Limited. (Added L.N. 245 of 2008)

(Replaced L.N. 272 of 1974)

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**Note:**

**\* The Investor Compensation Company Limited has been recognised as an investor compensation company (please see G.N. 1220 of 2003).**

Chapter 519	RAILWAYS ORDINANCE	Gazette Number	Version Date
Section 2	Interpretation	L.N. 130 of 2007	01/07/2007

**Remarks:**

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

In this Ordinance, unless the context otherwise requires-

"building" (建築物) has the same meaning as in the Buildings Ordinance (Cap 123);

"Building Authority" (建築事務監督) means the Director of Buildings;

"building works" (建築工程) includes any kind of building construction, site formation works, ground investigation in the areas set out in the Fifth Schedule to the Buildings Ordinance (Cap 123), foundation works, repairs, demolition, alteration, addition and every kind of building operation, and includes drainage works;

"claim" (申索) means a claim for compensation under this Ordinance;

"claimant" (申索人) means a person who has made a claim;

"compensatable interest" (可獲補償權益) means the estate or interest of-

- (a) a person having an unexpired lease of land (including any further term which could be obtained as of right) of not less than one month or a tenancy or sub-tenancy terminable (whether by virtue of an Ordinance or otherwise) by either party by not less than one month's notice;
- (b) a mortgagee in possession;
- (c) the holder of a valid option to purchase an estate or interest referred to in paragraph (a) or (b);
- (d) a purchaser under an agreement for sale and purchase to whom the benefit of an estate or interest referred to in paragraph (a) or (b) has already passed; or
- (e) the executor, administrator and beneficiary of a person having an estate or interest set out in paragraph (a), (b), (c) or (d);

"foreshore" (前濱) means the shore and includes the bed of the sea and of any tidal water within Hong Kong, below the line of the high water mark but above the low water mark;

"land" (土地) includes and may, where the context requires, have any one or more of the following meanings separately-

- (a) land lying wholly beneath the surface;
- (b) the whole or part of a building or other erection or fixture on land;
- (c) where an undivided share of a leasehold interest in land has appurtenant to it rights to the exclusive use and occupation of a building or a part of a building on the land, the share in the land and the appurtenant rights;
- (d) any other estate, right, share or interest in land;

"mortgage" (按揭) means a mortgage or charge registrable in the Land Registry;

"operations of a preventive or remedial nature" (屬預防或補救性質的作業) means to underpin or strengthen any land or building or any other work intended to render the land or building reasonably safe or to repair or detect damage caused by the construction, operation, modification, improvement or extension of the railway;

"owner" (擁有人) in relation to land, means the person holding the land-

- (a) directly under a Government lease;
- (b) under another title directly from the Government registered in the Land Registry;
- (c) vested by legislation; or
- (d) by way of possessory title,

and includes the executor, administrator and beneficiary of the person;

"railway" (鐵路), except in section 45, means any railway or proposed railway which is the subject of a scheme and includes all railway premises, depots, tracks, cuttings, embankments, tunnels, stations, goods and rail yards, car parks and other areas for ancillary uses but excludes non-railway developments above stations or above other railway property;

"reclamation" (填海) includes any work over and upon any foreshore and sea-bed;

"scheme" (方案) means-

- (a) subject to paragraphs (b) to (d), a scheme referred to in section 4, 5 or 6;
  - (b) subject to paragraphs (c) and (d), where a scheme has been amended under section 7, or corrected under section 8, or amended under section 7 and corrected under section 8, the scheme so amended or corrected or amended and corrected, as the case may be;
  - (c) subject to paragraph (d), where a scheme has been authorized under section 11 or 12(1), the scheme so authorized;
  - (d) where a scheme has been amended under section 12(2), the scheme so amended,
- and includes the plan attached to the scheme;

"sea-bed" (海床) means the shore and bed of the sea and of any tidal water within Hong Kong, below the line of the high water mark;

"Secretary" (局長) means the Secretary for Transport and Housing; (Replaced L.N. 106 of 2002. Amended L.N. 130 of 2007)

"telecommunications service" (電訊服務) has the meaning under the Telecommunications Ordinance (Cap 106). (Amended 36 of 2000 s. 28)



- (ii) 根據《城市規劃條例》(第 131 章)製備的任何經核准的圖則或草圖；
- (f) (如根據簡化規定展開的小型工程是在位於根據《城市規劃條例》(第 131 章)製備的經核准的圖則或草圖內的綜合發展區內進行)確保進行該工程，不會抵觸城市規劃委員會根據該條例第 4A(2) 條核准的總綱發展藍圖；及
- (g) 全面遵守本條例。”。

#### 8. 紀律委員會的委任及權力

第 5(1) 及 (3A) 條現予修訂，廢除“發展局”。

#### 9. 就認可人士、註冊結構工程師或註冊岩土工程師進行的紀律處分程序

##### (1) 第 7(1) 條現予修訂——

(a) 在 (b) 段中，廢除“或”；

(b) 加入——

“(ba) 可使該人不宜核證任何已根據或將會根據簡化規定展開的小型工程的；

(bb) 可使該人如繼續核證已根據或將會根據簡化規定展開的小型工程則會損及本條例的妥善執行的；或”。

##### (2) 第 7(1A) 條現予修訂——

(a) 在 (e) 段中，廢除句號而代以分號；

(b) 加入——

“(f) 曾核證在違反本條例的情況下進行的根據簡化規定展開的小型工程；

(g) 曾監督根據簡化規定展開的小型工程，而該工程的進行方式曾導致有人受傷(不論是否在該項監督期間發生)；

(h) 曾核證建築工程(小型工程除外)，猶如該工程是根據簡化規定展開的小型工程一樣；

- (ii) any approved or draft plan prepared under the Town Planning Ordinance (Cap. 131);
- (f) if minor works commenced under the simplified requirements are carried out within a comprehensive development area of an approved or draft plan prepared under the Town Planning Ordinance (Cap. 131), ensure that the carrying out of the 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 minor works commenced or to be commenced under the simplified requirements;

(bb) make further certification of minor works commenced or to be commenced under the simplified requirements by him prejudicial to the due administration of this Ordinance; or”.

##### (2) Section 7(1A) is amended—

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

(b) by adding—

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

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

(h) has certified building works (other than minor works) as if it were minor works commenced under the simplified requirements;

- (i) 曾監督建築工程(小型工程除外), 猶如該工程是根據簡化規定展開的小型工程一樣; 或
- (j) 沒有就根據簡化規定展開的小型工程, 執行他在第 4B(2)(d)、(e) 或 (f) 條下的職責。”。

(3) 第 7(2) 條現予修訂——

- (a) 廢除在“、則紀律委員會可”之前的所有字句而代以——

“(2) 如經適當研訊後, 紀律委員會信納有關認可人士、註冊結構工程師或註冊岩土工程師已如第 (1A)(a) 款所描述般被定罪、或曾作出第 (1A)(b)、(c)、(d)、(e)、(f)、(g)、(h) 或 (i) 款所描述的行為、或沒有就根據簡化規定展開的小型工程執行第 (1A)(j) 款所述的職責”;

- (b) 在 (b) 段中, 廢除“或”;

- (c) 廢除 (ba) 段而代以——

“(ba) 命令對該認可人士、註冊結構工程師或註冊岩土工程師處以——

- (i) 如屬建築工程(小型工程除外), 不超過 \$250,000 的罰款; 或
- (ii) 如屬小型工程, 不超過 \$150,000 的罰款; 或

(bb) 命令該認可人士、註冊結構工程師或註冊岩土工程師永久地或在一段紀律委員會認為合適的期間內, 被禁止核證任何根據簡化規定展開的小型工程。”。

(4) 第 7 條現予修訂、加入——

“(3A) 第 (2)(ba) 款提述的款項及根據第 (3) 款命令支付的任何研訊費用, 可作為欠政府的債項予以追討。”。

## 10. 承建商名冊等

(1) 第 8A(1) 條現予修訂——

- (a) 在 (a) 段中, 廢除“及”;

- (i) has supervised building works (other than minor works) as if it were minor works commenced under the simplified requirements; or
- (j) has not carried out his duties under section 4B(2)(d), (e) or (f) in respect of minor works commenced under the simplified requirements.”.

(3) Section 7(2) is amended—

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

“(2) Where, after due inquiry, the disciplinary board is satisfied that the authorized person, the registered structural engineer or the registered geotechnical engineer has been convicted as described in subsection (1A)(a) or done an act described in subsection (1A)(b), (c), (d), (e), (f), (g), (h) or (i) or has not carried out the duties mentioned in subsection (1A)(j) in respect of minor works commenced or to be commenced under the simplified requirements.”;

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

- (c) by repealing paragraph (ba) and substituting—

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

- (i) in the case of building works (other than minor works), a sum not exceeding \$250,000; or
- (ii) in the case of minor works, a sum not exceeding \$150,000; or

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

(4) Section 7 is amended by adding—

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

## 10. Registers of contractors, etc.

(1) Section 8A(1) is amended—

- (a) in paragraph (a), by repealing “and”;

(b) 屬根據第 5A 條委出的認可人士、註冊結構工程師及註冊岩土工程師紀律委員會成員的人 2 名；及

(c) 從按照第 (4A) 款獲提名的人之中選出的人 1 名。”。

(3) 第 11(3B) 條現予修訂，廢除“或註冊專門承建商”而代以“、註冊專門承建商或註冊小型工程承建商”。

(4) 第 11(4A) 條現予修訂——

(a) 廢除“及 (3)(c)”而代以“、(3)(c) 及 (3AA)(c)”；

(b) 廢除“發展局”。

## 15. 承建商的紀律處分程序

(1) 第 13(1) 條現予修訂——

(a) 廢除“或註冊專門承建商有關的事項，通知根據第 11 條委出的紀律委員會，但該項轉介紀律委員會處理的該註冊一般建築承建商或註冊專門承建商的”而代以“、註冊專門承建商或註冊小型工程承建商有關的事項，通知根據第 11 條委出的紀律委員會，但轉介紀律委員會處理的有關”；

(b) 在 (b) 段中，廢除“或”；

(c) 在 (c) 段中，廢除句號而代以分號；

(d) 加入——

“(d) 可使該承建商不宜核證或進行根據簡化規定展開的小型工程的；

(e) 可使該承建商如繼續核證或進行根據簡化規定展開的小型工程則會損及本條例的妥善執行的；或

(f) 可使該承建商應被暫時禁止核證或進行根據簡化規定展開的小型工程的。”。

(2) 第 13(2) 條現予修訂——

(a) 在 (e) 段中，廢除句號而代以分號；

(b) 加入——

“(f) 曾核證在違反本條例的情況下進行的根據簡化規定展開的小型工程；

(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 minor works commenced under the simplified requirements;

(e) make further certification of or carrying out minor works commenced under the simplified requirements by the contractor prejudicial to the due administration of this Ordinance; or

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

(2) Section 13(2) is amended—

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

(b) by adding—

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

- (g) 曾監督根據簡化規定展開的小型工程，而該工程的進行方式曾導致有人受傷(不論是否在該項監督期間發生)；
- (h) 曾進行根據簡化規定展開的小型工程，而該工程的進行方式曾導致有人受傷；
- (i) 曾根據簡化規定進行建築工程(小型工程除外)，猶如該工程是根據簡化規定展開的小型工程一樣；或
- (j) 曾核證建築工程(小型工程除外)，猶如該工程是根據簡化規定展開的小型工程一樣。”。

(3) 第 13(4) 條現予廢除，代以——

“(4) 如經適當研訊後，紀律委員會信納有關註冊承建商、董事、高級人員或獲該註冊承建商委任代其為本條例的目的而行事的人士已如第(2)(a)款所描述般被定罪，或曾作出第(2)(b)、(c)、(d)、(e)、(f)、(g)、(h)、(i)或(j)款所描述的行爲，則委員會可——

- (a) 命令將該註冊承建商的姓名或名稱或該董事、高級人員或人士的姓名或名稱永久地或在一段委員會認為合適的期間內，從有關名冊中刪除；
- (b) 命令對該註冊承建商或該董事、高級人員或人士處以——
  - (i) 如屬建築工程(小型工程除外)，不超過 \$250,000 的罰款；或
  - (ii) 如屬小型工程，不超過 \$150,000 的罰款；
- (c) 命令譴責該註冊承建商或該董事、高級人員或人士；或
- (d) (如該註冊承建商是註冊一般建築承建商或註冊專門承建商) 命令該註冊承建商永久地或在一段委員會認為合適的期間內，被禁止核證或進行任何根據簡化規定展開的小型工程。”。

(4) 第 13 條現予修訂，加入——

“(6A) 第(4)(b)款提述的款項及根據第(6)款命令支付的任何研訊費用，可作為欠政府的債項予以追討。”。

- (g) has supervised minor works commenced under the simplified requirements that have been carried out in such a manner that they have caused injury to a person (whether or not while under such supervision);
- (h) has carried out minor works commenced under the simplified requirements in such a manner that they have caused injury to a person;
- (i) has carried out building works (other than minor works) under the simplified requirements as if it were minor works commenced under the simplified requirements; or
- (j) has certified building works (other than minor works) as if it were minor works commenced under the simplified requirements.”.

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

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

- (a) order that the name of the registered contractor or the name of the director, officer or person be removed from the relevant register, either permanently or for such period as the disciplinary board thinks fit;
- (b) order that the registered contractor or the director, officer or person be fined—
  - (i) in the case of building works (other than minor works), a sum not exceeding \$250,000; or
  - (ii) in the case of minor works, a sum not exceeding \$150,000;
- (c) order that the registered contractor or the director, officer or person be reprimanded; or
- (d) in the case of a registered contractor who is a registered general building contractor or a registered specialist contractor, order that he be prohibited from certifying or carrying out any minor works commenced under the simplified requirements, either permanently or for such period as the disciplinary board thinks fit.”.

(4) Section 13 is amended by adding—

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

(2) 第 38 條現予修訂，在緊接第 (1A) 款之前加入——

“(1AA) 在不限制第 (1) 款的一般性的原則下，局長可藉訂立規例，規定在臨時名冊中，註冊某些人為註冊小型工程承建商 (不論是否作為補充或過渡性安排)。”。

(3) 第 38(5) 條現予修訂，在但書中，廢除“發展局”。

## 26. 技術備忘錄

第 39A(1) 條現予修訂——

(a) 廢除“發展局”；

(b) 在 (f) 段中，廢除“或註冊專門承建商”而代以“、註冊專門承建商或註冊小型工程承建商”。

## 27. 加入條文

在緊接第 39B 條之後加入——

### “39C. 建築事務監督不得根據第 24 條送達命令或根據第 24C 條送達通知

(1) 儘管有第 24 及 24C 條的規定，如第 (2)、(3) 及 (4) 款的規定，已就在生效日期前完成或進行的某訂明建築物或建築工程而獲遵守，建築事務監督不得以該建築物或建築工程在違反第 14(1) 條的情況下完成或進行為理由，就該建築物或該建築工程，根據第 24 條送達命令或根據第 24C 條送達通知。

(2) 認可人士、註冊結構工程師、註冊一般建築承建商、註冊專門承建商或註冊小型工程承建商須按規例規定獲委任，以檢查訂明建築物或建築工程。

(3) 根據第 (2) 款委任的人，須根據規例的規定，向建築事務監督或其他人呈交或交付訂明圖則、證明書、通知及其他文件。

(4) 凡根據第 (2) 款委任的人認為，為訂明建築物或建築工程的安全起見，有需要進行小型工程，以改動、糾正或加固訂明建築物或建築工程，該等工程須由訂明註冊承建商根據簡化規定進行。

(2) Section 38 is amended by adding immediately before subsection (1A)—

“(1AA) Without limiting the generality of subsection (1), the Secretary may by regulation provide for the registration of persons as registered minor works contractors in the provisional register (whether or not as supplemental or transitional arrangements).”.

(3) Section 38(5) is amended, in the proviso, by repealing “for Development”.

## 26. 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”.

## 27. 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 minor works to alter, rectify or reinforce the prescribed building or building works, such works are to be carried out by a prescribed registered contractor under the simplified requirements.

(5) 本條的規定，並不影響建築事務監督作出以下作為的權力：以第(1)款所提述的理由以外的其他理由，根據第 24 條送達命令或根據第 24C 條送達通知。

(6) 在本條中——

- (a) “生效日期”(date of commencement) 指《2008 年建築物(修訂)條例》(2008 年第 20 號) 第 27 條的生效日期；
- (b) “訂明建築物或建築工程”(prescribed building or building works) 指在規例中，為施行本定義而被訂明為訂明建築物或建築工程的建築物或建築工程。”。

## 28. 罪行

(1) 第 40(1AA) 條現予廢除，代以——

“(1AA) 任何人明知而違反第 14(1) 條，即屬犯罪，而如屬建築工程(小型工程除外)或街道工程的情況，一經定罪——

- (a) 可處罰款 \$400,000 及監禁 2 年；及
- (b) 可就經證明並獲法庭信納該罪行持續的每一天，另處罰款 \$20,000。

(1AB) 任何人犯第 4A(2) 或 9AA(2) 條所訂罪行，一經定罪，可處第 6 級罰款。”。

(2) 第 40(1)(a) 條現予修訂，廢除“罰款 \$100,000”而代以“第 6 級罰款”。

(3) 第 40(1A) 條現予修訂，廢除“罰款 \$5,000”而代以“第 2 級罰款”。

(4) 第 40(1B)(i) 條現予修訂，廢除“罰款 \$50,000”而代以“第 5 級罰款”。

(5) 第 40 條現予修訂，加入——

“(1BB) 任何人無合理辯解而沒有遵從根據第 24AA(1) 條送達予他的命令，即屬犯罪，一經定罪——

- (a) 可處第 5 級罰款及監禁 3 個月；及
- (b) 可就經證明並獲法庭信納該罪行持續的每一天，另處罰款 \$5,000。”。

(6) 第 40(1C) 條現予修訂，廢除“罰款 \$2,000”而代以“第 1 級罰款”。

(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 27 of the Buildings (Amendment) Ordinance 2008 (20 of 2008);
- (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.”.

## 28. Offences

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

“(1AA) Any person who knowingly contravenes section 14(1) in respect of building works (other than minor works) or street works shall be guilty of an offence and shall be liable on conviction—

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

(1AB) Any person who commits an offence under section 4A(2) or 9AA(2) shall be liable on conviction to a fine at level 6.”.

(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) 第 40(1D) 條現予修訂，廢除“罰款 \$10,000”而代以“第 3 級罰款”。
- (8) 第 40(1E) 條現予修訂，廢除“罰款 \$50,000”而代以“第 5 級罰款”。
- (9) 第 40(2A) 條現予修訂——
- (a) 廢除“或註冊專門承建商”而代以“、註冊專門承建商或註冊小型工程承建商”；
- (b) 在 (b) 段中，廢除“；或”而代以分號；
- (c) 加入——
- “(ba) 嚴重偏離根據簡化規定須呈交建築事務監督的關乎小型工程的圖則所顯示的任何工程，或與之嚴重相歧；或”；
- (d) 廢除在“一經定罪”之後的所有字句而代以——
- “——
- (d) 如屬建築工程 (小型工程除外) 或街道工程，可處罰款 \$1,000,000 及監禁 3 年；或
- (e) 如屬小型工程，可處罰款 \$500,000 及監禁 18 個月。”。
- (10) 第 40 條現予修訂，在緊接第 (2AA) 款之後加入——
- “(2AAAA) 任何訂明建築專業人士違反第 4B(2)(c) 條，或任何訂明註冊承建商違反第 9AA(4)(b) 或 (6)(b) 條，即屬犯罪，一經定罪，可處第 5 級罰款。
- (2AAAB) 在因違反第 (2AAAA) 款所提述任何條文而提出的檢控中，如被控的人能證明他當時並不知悉且按理亦不能發覺控罪所提述的違反情況，即可以此作為免責辯護。
- (2AAAC) 任何人違反紀律委員會根據第 7(2)(bb) 或 13(4)(d) 條作出的命令，即屬犯罪，一經定罪——
- (a) 可處第 6 級罰款及監禁 6 個月；及
- (b) 可就經證明並獲法庭信納該罪行持續的每一天，另處罰款 \$5,000。”。
- (11) 第 40(2AB) 條現予修訂——

- (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 simplified requirements; or”;
- (d) by repealing everything after “conviction” and substituting—
- “——
- (d) in the case of building works (other than minor works) or street works, to a fine of \$1,000,000 and to imprisonment for 3 years; or
- (e) in the case of minor works, to a fine of \$500,000 and to imprisonment for 18 months.”.
- (10) Section 40 is amended by adding immediately after subsection (2AA)—
- “(2AAAA) Any prescribed building professional who contravenes section 4B(2)(c), or any prescribed registered contractor who contravenes section 9AA(4)(b) or (6)(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) 廢除“或註冊專門承建商”而代以“、註冊專門承建商或註冊小型工程承建商”；
- (b) 廢除在“一經定罪”之後的所有字句而代以——

- “(a) 如屬建築工程(小型工程除外)或街道工程、可處罰款 \$150,000 及監禁 1 年；或
- (b) 如屬小型工程、可處罰款 \$35,000 及監禁 3 個月。”。

(12) 第 40(2AC) 條現予修訂——

- (a) 廢除“或註冊專門承建商”而代以“、註冊專門承建商或註冊小型工程承建商”；
- (b) 廢除在“一經定罪”之後的所有字句而代以——

- “(a) 如屬地盤平整工程、打樁工程、挖掘工程或基礎工程(小型工程除外)、可處罰款 \$750,000 及監禁 3 年；或
- (b) 如屬是小型工程的地盤平整工程、挖掘工程或基礎工程、可處罰款 \$350,000 及監禁 18 個月。”。

(13) 第 40(2B) 條現予修訂——

- (a) 廢除“或註冊專門承建商”而代以“、註冊專門承建商或註冊小型工程承建商”；
- (b) 廢除在“一經定罪”之後的所有字句而代以——

- “(c) 如屬地盤平整工程、打樁工程、基礎工程或其他形式的建築工程(小型工程除外)、可處罰款 \$1,000,000 及監禁 3 年；或
- (d) 如屬是小型工程的地盤平整工程、基礎工程或其他形式的建築工程、可處罰款 \$500,000 及監禁 18 個月。”。

(14) 第 40(2C)(a) 及 (b) 條現予廢除、代以——

- “(a) 如屬建築工程(小型工程除外)或街道工程——

- (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, 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, 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) 可處罰款 \$1,000,000 及監禁 3 年；及
- (ii) 可就經證明並獲法庭信納該罪行持續的每一天，另處罰款 \$200,000；或
- (b) 如屬小型工程——
  - (i) 可處罰款 \$500,000 及監禁 18 個月；及
  - (ii) 可就經證明並獲法庭信納該罪行持續的每一天，另處罰款 \$100,000。”。

## (15) 第 40 條現予修訂，加入——

“(2E) 凡任何註冊小型工程承建商或註冊專門承建商核證或進行不屬於他註冊所屬的級別、類別或項目的小型工程，即屬犯罪，一經定罪——

- (a) 可處第 6 級罰款及監禁 6 個月；及
- (b) 可就經證明並獲法庭信納該罪行持續的每一天，另處罰款 \$5,000。

(2F) 任何並非訂明建築專業人士的人無合理辯解而核證小型工程，即屬犯罪，一經定罪——

- (a) 可處第 6 級罰款及監禁 6 個月；及
- (b) 可就經證明並獲法庭信納該罪行持續的每一天，另處罰款 \$5,000。

(2G) 任何並非訂明註冊承建商亦非在任何該等承建商監督之下行事的人無合理辯解而核證或進行小型工程，即屬犯罪，一經定罪——

- (a) 可處第 6 級罰款及監禁 6 個月；及
- (b) 可就經證明並獲法庭信納該罪行持續的每一天，另處罰款 \$5,000。”。

(16) 第 40(3) 條現予修訂，廢除“罰款 \$50,000”而代以“第 5 級罰款”。

(17) 第 40(3A) 條現予修訂，廢除“罰款 \$50,000”而代以“第 5 級罰款”。

- (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 a prescribed building professional, 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 prescribed registered 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) 第 40(4) 條現予修訂，廢除“罰款 \$50,000”而代以“第 5 級罰款”。
- (19) 第 40(4A) 條現予修訂，廢除“罰款 \$50,000”而代以“第 5 級罰款”。

## 29. 豁免

- (1) 第 41(3) 條現予廢除，代以——

“(3) 在任何建築物內進行的建築工程(排水工程、附表所列地區內的土地勘測、地盤平整工程或小型工程除外)如並不涉及該建築物的結構，則獲豁免而不受第 4、9、9AA、14(1) 及 21 條管限。”。

- (2) 第 41(3A) 條現予廢除。

- (3) 第 41 條現予修訂，加入——

“(3B) 規例訂明的指定豁免工程獲豁免而不受第 4、9、9AA、14(1) 及 21 條管限。

(3C) 在任何建築物內進行排水工程(小型工程除外)如並不涉及——

- (a) 該建築物的結構；
- (b) 供排放或擬供排放任何工商業污水、化學垃圾、廢蒸氣、汽油、碳化鈣、酸性物質、油脂或油類的排水渠或污水渠；
- (c) 改動該建築物的任何排水渠或污水渠與公眾污水渠接駁之處的沙井；
- (d) 改動任何化糞池或污水池；
- (e) 將額外的排水渠或污水渠直接或間接接駁至化糞池或污水池；或

(f) 在附表 5 內稱為第 3 號地區的附表所列地區的地下排水工程，則獲豁免而不受第 4、9 及 14(1) 條管限。

(3D) 第 (3)、(3B) 及 (3C) 款並不准許任何建築工程或排水工程在違反任何規例的情況下進行。”。

## 30. 與上訴審裁小組有關的罪行

第 53B 條現予修訂，廢除“罰款 \$10,000”而代以“第 3 級罰款”。

(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”.

## 29. Exemptions

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

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

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

- (3) Section 41 is amended by adding—

“(3B) Designated exempted works that are prescribed in the regulations 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 involve—

- (a) the structure of the building;
- (b) any drain or sewer into which there is discharged, or into which it is intended to discharge, any trade effluent, chemical refuse, waste steam, petroleum spirit, carbide of calcium, acid, grease or oil;
- (c) 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;
- (e) making a direct or indirect connection of an additional drain or sewer to a septic tank or cesspool; or
- (f) 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.”.

## 30. Offences in respect of Appeal Tribunal

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

**46. 屋簷、飛簷、裝飾線條等**

第 7 條現予修訂，加入——

“(3) 任何晾衣架或空調裝置的支撐結構，不得在街道上方伸出多於 750 毫米，亦不得在地面水平之上少於 2.5 米的高度伸出。”。

**第 4 部****相應修訂****《建築物條例(新界適用)條例》****47. 豁免證明書的效力**

《建築物條例(新界適用)條例》(第 121 章)第 7(1)(a) 條現予修訂，在“9”之後加入“、9AA”。

**《建造業工人註冊條例》****48. 釋義**

《建造業工人註冊條例》(第 583 章)第 2(1) 條現予修訂，在“建造工地”的定義中，在 (a)(ii) 段中——

- (a) 廢除“41(3) 或 (3A) 條”而代以“14AA 或 41(3)、(3B) 或 (3C) 條”；
- (b) 廢除“向建築事務監督申請或經其批准下”而代以“遵守該條例第 14(1) 條的情況下展開或”。

**49. 釋義**

第 19(2) 條現予廢除，代以——

“(2) 就本部而言，建造工程如屬並非由政府或由他人代政府進行的建築工程或街道工程，則須當作於以下日期展開——

**46. 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****Buildings Ordinance (Application to the New Territories) Ordinance****47. Effect of certificate of exemption**

Section 7(1)(a) of the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121) is amended by adding “, 9AA” after “9”.

**Construction Workers Registration Ordinance****48. 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”.

**49. 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—

## **Implications of the Proposal**

### **Financial and Civil Service Implications**

Additional resources are required by BD to implement the MBIS and MWIS to be introduced under the Amendment Bill. The major areas of work include processing applications for registration as registered inspectors; selecting buildings and notifying building owners for mandatory inspections and repairs under the MBIS and MWIS every year; handling documents and records of inspections and repairs; conducting audit checks on submissions by professional personnel; conducting public education and providing support to owners; as well as dealing with non-compliant cases including issuing penalty notices, conducting disciplinary proceedings and instigating prosecutions. We expect that with the implementation of the two Schemes, the safety condition of the building stock in Hong Kong will gradually improve and this will ease the workload of the existing staff in BD. We will review the situation and identify the savings in due course. Additional resources will also be required by the Housing Department to participate in the MBIS and MWIS for buildings which are constructed by the Housing Authority (but part of which are sold to private owners and hence are subject to the BO), the Development Bureau to handle MBIS- and MWIS-related appeal cases lodged to the Appeal Tribunal (Buildings), and the Judiciary to handle cases in relation to the implementation of the proposal (in particular those concerning fixed penalty notices in the MWIS).

2. We anticipate that the introduction of the MBIS and MWIS would not cause the demand for assistance under the various existing Government grant/loan schemes to increase substantially in such a way as will require further injection of public funding into these schemes in the foreseeable future, and that the HKHS and Urban Renewal Authority would finance their own assistance schemes with their own means.

3. The registration fees for RIs will be charged on the basis of recovering the full cost of administering the registration system.

### **Economic Implications**

4. The implementation of the MBIS and MWIS will reduce threat to public safety and hence the costs of building neglect, including cost of remedial repairs, personal injury and property damage. There will be economic benefits in terms of improved utility, durability, safety and appearance of the buildings

involved, thus upholding their property value. Thus, while there will be a corresponding increase in expenses on building inspection, this should be a cost worth incurring for the benefit of public safety and a better living environment.

5. In addition, the implementation of the MBIS and MWIS will generate added demand for building management and maintenance services, thereby creating employment opportunities in the building industry.

### **Environmental Implications**

6. Proper building maintenance will slow down the dilapidation of buildings. Pollution and hygiene problems caused by building defects, such as defective drainage system, would be minimised. While the inspection and repair works may pose some potential impacts to the environment (such as noise and demolition waste), these activities will be subject to relevant environmental regulations and have to meet all applicable requirements and standards. Overall speaking, the MBIS and MWIS will bring about improvement to the built environment.

### **Sustainability Implications**

7. The implementation of the MBIS and MWIS will address the long-standing problem of building neglect and improve building safety in Hong Kong. The two Schemes will ensure that owners take preventive measures to maintain building and window safety and promote a building care culture in society. In the long run, the number of prematurely aging buildings would be reduced, the overall life span of private buildings prolonged, and the living and working environment of Hong Kong improved. This is 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 of Hong Kong.