

LEGISLATIVE COUNCIL BRIEF

**Buildings Ordinance
(Cap. 123)**

**Prevention of Bribery Ordinance
(Cap. 201)**

SUBSIDIARY LEGISLATION AND TECHNICAL MEMORANDUM FOR IMPLEMENTATION OF MINOR WORKS CONTROL SYSTEM

INTRODUCTION

At the meeting of the Executive Council on 6 October 2009, the Council ADVISED and the Chief Executive ORDERED that -

A
_____ (a) under section 38(1A) of the Buildings Ordinance (Cap. 123) (“BO”), the Building (Minor Works) (Fees) Regulation (“Fees Regulation”), at **Annex A**; and

B
_____ (b) under section 35 of the Prevention of Bribery Ordinance (Cap. 201) (“POBO”), the Prevention of Bribery Ordinance (Amendment of Schedule 1) Order 2009 (“Order”), at **Annex B**

should be made.

C
_____ 2. The Secretary for Development (“SDEV”) has, under section 38(1) of the BO, made the Building (Administration) (Amendment) Regulation 2009 (“Administration Amendment Regulation”) (**Annex C**). In accordance with section 39A(1) of the BO, D
_____ the SDEV has also issued the Technical Memorandum for Supervision Plans 2009 (“Technical Memorandum 2009”) (**Annex D**).

JUSTIFICATIONS

3. Following the enactment of the Building (Minor Works) Regulation (L.N. 51 of 2009) (“B(MW)R”) in May 2009, we need to make three further pieces of subsidiary legislation, concerning charging of fees, prevention of bribery as well as requirements on the submission of

documents by the building professionals and contractors, for the commencement of the minor works control system (“MWCS”). A technical memorandum concerning the modus operandi of supervision of building works (including minor works) has also to be made.

Existing Building Control System

4. Under the existing building control system, all building works, despite their scale and complexity, are regulated under one single regime. Prior approval of building plans and consent to commence building works must be obtained from the Building Authority (“BA”) before the commencement of such works. This control system does not differentiate building works relating to the construction of a new building from minor building works carried out in existing buildings which are simple in nature such as erection of supporting frames for air conditioners. As a consequence, many minor building works are carried out without complying with the law and are therefore unauthorized building works (“UBWs”). The MWCS will simplify the existing procedures in order to provide a lawful, simple, safe as well as convenient means for building owners to carry out minor works.

Minor Works Control System – Legislative Progress

5. Under the Buildings (Amendment) Ordinance 2008 (20 of 2008) (“Amendment Ordinance”) passed by the Legislative Council (“LegCo”) in June 2008, a new category of building works, namely “minor works”, and a register of “registered minor works contractors” (“RMWCs”) for carrying out such minor works, will be introduced under the BO. In respect of minor works, the requirement to seek the BA’s prior approval of building plans and consent to commence works will be dispensed with.

6. The B(MW)R, made by the SDEV in March 2009 and amended by a LegCo resolution (L.N. 113 of 2009) on 20 May 2009, sets out the modus operandi of the MWCS. The B(MW)R provides for the classification of minor works and details of minor works items, simplified requirements for carrying out minor works, registration and provisional registration of RMWCs as well as duties of building professionals and registered contractors in carrying out minor works. Minor works have been classified by the B(MW)R into three classes according to their nature, scale and complexity as well as the risk to safety they pose. The works under each class will be further classified into types and items that correspond to the specialization of works in the industry.

Building (Minor Works) (Fees) Regulation

7. The MWCS will create a register of RMWCs competent for carrying out minor works of various classes, types and items. Minor works practitioners, upon payment of a prescribed fee, may apply for registration as RMWCs for the relevant classes, types or items according to their qualifications and experience. A transitional period together with a provisional registration arrangement will be put in place to allow adequate time for the existing minor works practitioners to prepare for registration.

8. The contractors who apply for registration as RMWCs for different classes, types or items may be body corporates, partnerships or sole proprietorships or individuals. They have to satisfy the BA that they possess the ability and necessary academic qualifications or work experience to carry out the minor works concerned before they can be registered. Upon expiry of a three-year registration, the RMWCs may apply for renewal or restoration of their registration. The RMWCs may also apply for registering additional classes, types or items of minor works or nominating additional authorized signatories anytime as they obtain relevant qualifications or experience. There will also be a review mechanism for registration committees to re-consider unsuccessful application cases upon the applicants' request. We will have to determine the appropriate level of prescribed fees for processing the various aforementioned applications.

9. The Fees Regulation is to set out the level of fees for the various applications by RMWCs under the B(MW)R, including new registration, renewal of registration, restoration of name to register, registration of additional class, type or item of minor works, nomination of additional authorized signatory, review of unsuccessful case and provisional registration. According to section 38(1A) of the BO, “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”. The proposed fee structure, at **Annex E**, is established on the basis of recovering the full cost of administering the registration system and is modeled on the existing arrangement for registered general building contractors stipulated in the Building (Administration) Regulations (Cap 123 sub. leg. A) (“B(A)R”).

Prevention of Bribery Ordinance (Amendment of Schedule 1) Order 2009

10. Under the MWCS, one or more than one Minor Works Contractors Registration Committees (“MWCRC”), comprising representatives from the building industry, may be appointed to assist the BA in considering applications under the B(MW)R. The BA may refer the applications to a MWCRC which will recommend the BA to allow, defer or refuse the applications. A MWCRC will also be responsible to review unsuccessful application cases upon the applicants’ request.

11. Under the POBO, the list of "public body" includes four registration committees, namely the Authorized Persons Registration Committee, Structural Engineers Registration Committee, Geotechnical Engineers Registration Committee and Contractors Registration Committee, established under the BO. Such public bodies and members of the same are subject to stringent control under the POBO such as offences relating to the soliciting or accepting of advantages. A MWCRC is an advisory registration committee with a nature similar to the existing Committees for building professionals and contractors that are covered by the POBO. According to section 35 of the POBO, “the Chief Executive in Council may by order published in the Gazette amend the Schedules”. The Order is thus made to include a MWCRC in the list of public bodies in Schedule 1 to the POBO.

Building (Administration) (Amendment) Regulation 2009

12. Under regulation 45 of the B(A)R, building professionals and registered contractors are required to notify the BA within 14 days of any change in business address. The Administration Amendment Regulation seeks to subject RMWCs to the same requirement. It also amends regulation 22(3) and (4) of the B(A)R to the effect that building professionals and registered contractors are required to inform the BA of any change in the appointment of any technically competent person within 7 days of the change for carrying out building works (including minor works). Currently, the requirement is 14 days. The amendment will enhance the BA’s monitoring of changes of technically competent persons and quality of site supervision, in particular in the case of minor works the duration of which is usually short.

Technical Memorandum for Supervision Plans 2009

13. A supervision plan is a plan setting out the safety management of building works or street works prepared in compliance with the technical memorandum issued under the BO. The Technical Memorandum for Supervision Plans, issued by the SDEV under section 39A of the BO, stipulates the format and requirements of a supervision plan. It requires that the supervision of the implementation of building works or street works should be carried out in accordance with the supervision plan which should be lodged by an authorized person with the BA before commencement of works. For the case of minor works, such plans will be required for selected categories of Class I works.

14. As stipulated under section 39A(2) to (9) of the BO, a technical memorandum issued by the SDEV is an instrument other than subsidiary legislation but is subject to negative vetting. The current Technical Memorandum for Supervision Plans was issued by the then Secretary for Housing, Planning and Lands and published in Special Supplement No. 5 to Gazette on 3 June 2005. It came into operation on 31 December 2005. For the implementation of the MWCS, we need to update the Memorandum to impose corresponding supervision requirements for minor works.

15. The Technical Memorandum 2009 at **Annex D** seeks to replace the version issued in 2005. Modelled on the existing requirements for general building works, it includes updated provisions on the submission of supervision plans for minor works. The updates are technical in nature, consequential as a result of the introduction of the MWCS.

Implementation of Minor Works Control System

16. Subject to the enactment of the three pieces of subsidiary legislation as well as the Technical Memorandum 2009, the plan is to commence registration of RMWCs and implement the MWCS within 2009/10.

17. Among the minor works practitioners, the relatively lower-skilled Class III individual contractors are required to attend a one-day training course (costing about \$230) before they can be registered as RMWCs to equip themselves with the essential knowledge of the MWCS. Although the fees in our proposal are set at a cost-recovery level, with a view to facilitating the registration of this group of individual

practitioners amid the economic downturn, we propose to provide one-off subsidies for such workers to attend the pre-requisite one-day top-up training course within the first 36 months of registration. It is expected that the provision of free courses would incentivize individual workers to go through necessary training and registration early, and hence uplift the overall skill level of the market and improve building safety standards in Hong Kong.

THE REGULATIONS, ORDER AND TECHNICAL MEMORANDUM

Building (Minor Works) (Fees) Regulation

18. The Fees Regulation (**Annex A**) stipulates the prescribed fees to be charged concerning the registration and related matters for RMWCs. The main provisions are -

- (a) **Part 1** contains preliminary provisions which provide for the commencement of the Fees Regulation and define various terms used in the Regulation;
- (b) **Part 2** prescribes the fees relating to registration of individual RMWCs for Class III minor works;
- (c) **Part 3** prescribes the fees relating to registration of other RMWCs (including body corporates, partnerships or sole proprietorships) for all classes of minor works; and
- (d) **Part 4** prescribes the fees relating to provisional registration.

Prevention of Bribery Ordinance (Amendment of Schedule 1) Order 2009

19. In the Order (**Annex B**), **section 2** amends Schedule 1 to the POBO by adding an entry for MWCRC.

Building (Administration) (Amendment) Regulation 2009

20. In the Administration Amendment Regulation (**Annex C**) –
- (a) **section 2** amends regulation 22 of the B(A)R to reduce the period within which an authorized person, registered structural

engineer, registered geotechnical engineer, registered general building contractor, registered specialist contractor or RMWC is required to notify the BA of a change in the appointment of any technically competent person from 14 days to 7 days; and

- (b) **section 3** amends regulation 45 of the B(A)R to require a RMWC to notify the BA of a change of business address.

TECHNICAL MEMORANDUM FOR SUPERVISION PLANS 2009

21. The Technical Memorandum 2009 (**Annex D**) supersedes the version issued in 2005. The major updates include –

- (a) **section 11** sets out that supervision plans are not required for building works that are Class II and Class III minor works; and
- (b) **Table 1** sets out the modus operandi concerning site supervision for Class I minor works carried out under simplified requirements.

22. The Technical Memorandum 2009 also includes consequential updates in relation to the implementation of the MWCS, minor updates to existing procedures such as appointment of personnel for safety management, and clarification of roles and duties of site safety personnel. Further textual and miscellaneous amendments are also made to enhance the user-friendliness of the Memorandum.

LEGISLATIVE TIMETABLE

23. The legislative timetable for the three pieces of subsidiary legislation (i.e. the Fees Regulation, Order, and Administration Amendment Regulation) is as follows -

Publication in the Gazette	9 October 2009
Tabling in LegCo	14 October 2009
Commencement of the subsidiary legislation	A date to be appointed by the Secretary for Development by notice published in the Gazette

24. According to section 39A of the BO, the Technical Memorandum 2009 is not a piece of subsidiary legislation but is subject to the negative vetting procedures as for subsidiary legislation. LegCo

may, by resolution passed at a sitting held before the expiry of a period of 28 days (extendable for another 21 days) after the sitting at which the Technical Memorandum was laid, provide that the Memorandum be amended in any manner consistent with the power to issue the Memorandum. We will table the Technical Memorandum 2009 in LegCo on 14 October 2009, the same date as the three pieces of subsidiary legislation.

IMPLICATIONS OF THE PROPOSAL

25. The three pieces of subsidiary legislation as well as the Technical Memorandum are in conformity with the Basic Law, including the provisions concerning human rights. They will not affect the current binding effects of the existing provisions of the BO and POBO. They have no significant economic implications, productivity implications and impacts on competition.

Financial and Civil Service Implications

26. An annual provision of \$15.1 million involving 32 additional staff (comprising 23 civil service and 9 non-civil-service contract staff) has been earmarked for the Buildings Department (“BD”) to implement the MWCS. The major areas of work include processing applications for registration as RMWCs, handling documents and records of minor works submissions, conducting audit checks on minor works, public education and support to building owners and occupants, as well as dealing with possible non-compliant cases which may end up with judicial proceedings.

27. The resources for the training subsidy to facilitate the registration of individual practitioners as RMWCs for Class III minor works will be absorbed by the Development Bureau.

28. Revenue will be generated from the proposed registration fees. It is expected that a total of \$8.9 million of revenue will be generated in the first year, \$7.5 million in the second year, \$5.4 million in the third year and \$3.6 million annually thereafter.

Environmental Implications

29. With the implementation of the MWCS to facilitate the carrying out of small-scale building works including demolition of UBWs, there may be some transient problems during the process of removal of UBWs,

such as noise and demolition waste. However, contractors are required to follow the existing guidelines including proper removal procedures. These short-term environmental problems will be contained via compliance of the established standards and criteria.

Sustainability Implications

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

PUBLIC CONSULTATION

31. The BD has set up a working group (“WG”) since 2004 comprising representatives from various professional institutes, the Hong Kong Construction Association, developers and the "Minor Works Concern Group" (comprising frontline practitioners) to discuss the details of MWCS, including the proposed fees level. After the enactment of the Amendment Ordinance and B(MW)R, the BD has continued its consultation with the WG to refine the detailed proposals. Two sub-working groups were formed in October 2008 for developing the publicity action plan as well as the implementation details of the registration system and top-up training courses. The WG has been briefed on the proposed level of fees. While some members have urged the Government to explore room for further reduction of the fees, the WG noted that the fees would be charged on a cost-recovery basis and have raised no adverse comments towards the proposals. The bills committee of the Amendment Ordinance and subcommittee on the B(MW)R have discussed the principles of the proposed system thoroughly and were supportive of the final proposal. The proposed level of fees has been circulated to both committees.

32. Regarding the Administration Amendment Regulation and the Technical Memorandum 2009, the Building Sub-committee under the then Land and Building Advisory Committee has been consulted and it raised no comments.

PUBLICITY

33. A spokesman will be available to handle press enquiries.

34. Before the implementation of the MWCS, BD will launch a publicity and public education programme to promote the system to both the general public and the industry. Technical guidelines and practice notes on the statutory requirements and procedures of the new system will be issued for the reference of building professionals and registered contractors. BD will also collaborate with the Hong Kong Housing Society and its Property Management Advisory Centres in various districts to offer services to provide technical advice and assistance to the general public. Tailor-made leaflets and guidelines will be produced to facilitate various building owners and stakeholders (e.g. management companies, catering and advertising industries, etc) to understand the MWCS and the channels to hire appropriate professionals and contractors to carry out minor works.

ENQUIRY

35. Enquiry on this brief can be addressed to Mr. Edward TO, Principal Assistant Secretary for Development (Planning & Lands) 3 on 2848 6288.

Development Bureau

October 2009

**SUBSIDIARY LEGISLATION
AND TECHNICAL MEMORANDUM
FOR IMPLEMENTATION OF
MINOR WORKS CONTROL SYSTEM: ANNEXES**

Annex A - Building (Minor Works) (Fees) Regulation

Annex B - Prevention of Bribery Ordinance (Amendment of Schedule 1) Order 2009

Annex C - Building (Administration) (Amendment) Regulation 2009

Annex D - Technical Memorandum for Supervision Plans 2009

Annex E - Proposed Level of Fees under Building (Minor Works) (Fees) Regulation

BUILDING (MINOR WORKS) (FEES) REGULATION

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BUILDING (MINOR WORKS) (FEES) REGULATION

(Made by the Chief Executive in Council under section 38(1A) of the Buildings Ordinance (Cap. 123))

PART 1

PRELIMINARY

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Development by notice published in the Gazette.

2. Interpretation

(1) In this Regulation –

“authorized signatory” (獲授權簽署人) has the meaning given by section 2(1) of the Minor Works Regulation;

“item” (項目) has the same meaning as in the Minor Works Regulation;

“Minor Works Regulation” (《小型工程規例》) means the Building (Minor Works) Regulation (L.N. 51 of 2009);

“proposed authorized signatory” (建議獲授權簽署人) –

(a) in relation to an application for registration under section 10(1)(b) or 64(1) of the Minor Works Regulation, means the individual nominated under section 10(3) or 64(3) of that Regulation;

(b) in relation to an application for the renewal of a registration under section 14(1) of that Regulation, means an individual nominated to be the authorized signatory of the applicant in the application form;

(c) in relation to an application for the restoration of a name to the register under section 18(1) of that Regulation, means

an individual nominated to be the authorized signatory of the applicant in the application form;

(d) in relation to an application for the addition of one or more classes or types of minor works to a registration under section 21(2) of that Regulation, means the individual nominated under section 21(4) of that Regulation;

(e) in relation to an application for the approval of the nomination of an additional individual under section 24(1) of that Regulation, means the individual;

“proposed class I authorized signatory” (建議第 I 級別獲授權簽署人), in relation to an application, means a proposed authorized signatory who is nominated in the application form in respect of class I minor works (whether or not the individual is also nominated in respect of other classes of minor works);

“proposed class II authorized signatory” (建議第 II 級別獲授權簽署人), in relation to an application, means a proposed authorized signatory who is nominated in the application form in respect of class II minor works, or class II and class III minor works;

“proposed class III authorized signatory” (建議第 III 級別獲授權簽署人), in relation to an application, means a proposed authorized signatory who is nominated in the application form in respect of class III minor works only;

“provisional register” (臨時名冊) means the provisional register of minor works contractors kept under section 8A(1)(c) of the Ordinance;

“register” (名冊) means the register of minor works contractors kept under section 8A(1)(c) of the Ordinance;

“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;

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

“type” (類型) has the same meaning as in the Minor Works Regulation.

(2) In this Regulation –

- (a) “class I minor works” (第 I 級別小型工程) means any item of minor works specified in Division 1 of Part 3 of Schedule 1 to the Minor Works Regulation;
- (b) “class II minor works” (第 II 級別小型工程) means any item of minor works specified in Division 2 of Part 3 of Schedule 1 to that Regulation;
- (c) “class III minor works” (第 III 級別小型工程) means any item of minor works specified in Division 3 of Part 3 of Schedule 1 to that Regulation,

and a reference to class, class I, class II or class III is to be construed accordingly.

(3) In this Regulation –

- (a) class I minor works are of a class higher than class II and class III minor works; and
- (b) class II minor works are of a class higher than class III minor works.

PART 2

FEES RELATING TO REGISTRATION FOR ONE OR MORE ITEMS OF CLASS III MINOR WORKS

3. Application of Part 2

(1) Section 4 applies to an application under section 10(1)(a) of the Minor Works Regulation for registration as a registered minor works contractor for one or more items of class III minor works.

(2) Section 5 applies to an application under section 14(1) of the Minor Works Regulation for the renewal of the registration of a registered minor works contractor registered under section 11 of that Regulation.

(3) Section 6 applies to an application under section 18(1) of the Minor Works Regulation for the restoration to the register of the name of a person who was registered under section 11 of that Regulation and whose name was removed from the register under section 17(1) of that Regulation.

(4) Section 7 applies to an application under section 21(1) of the Minor Works Regulation for the addition to a registration of one or more additional items of class III minor works.

(5) Section 8 applies to a request under section 26(1) of the Minor Works Regulation to review a decision or recommendation made in respect of an application referred to in subsection (1), (2), (3) or (4).

4. Fee for application for registration as registered minor works contractor for one or more items of class III minor works

The fee to be paid under section 10(2)(b) of the Minor Works Regulation for an application for registration as a registered minor works contractor is –

- (a) if, for at least one of the items of minor works to which the application relates, the applicant relies solely on the experience possessed by the applicant to comply with section 11(2)(a) of that Regulation, \$305; or
- (b) in any other case, \$155.

5. Fee for application for renewal of registration for one or more items of class III minor works

The fee to be paid under section 14(2)(b) of the Minor Works Regulation for an application for the renewal of the registration of a registered minor works contractor is \$105.

6. Fee for application for restoration of name to register for one or more items of class III minor works

The fee to be paid under section 18(2)(b) of the Minor Works Regulation for an application for the restoration of the name of a person to the register is \$105.

7. Fee for application for registration of additional items of class III minor works

The fee to be paid under section 21(3)(b) of the Minor Works Regulation for an application for the addition to a registration of one or more additional items of class III minor works is –

- (a) if, for at least one of the items, the applicant relies solely on the experience possessed by the applicant to comply with section 22(2)(a) of that Regulation, \$305; or
- (b) in any other case, \$155.

8. Fee for request for review: application relating to one or more items of class III minor works

The fee to be paid under section 26(2)(b) of the Minor Works Regulation for a request to review a decision or recommendation made in respect of an application is \$105.

PART 3

FEES RELATING TO REGISTRATION FOR ONE OR MORE TYPES OF MINOR WORKS UNDER ONE OR MORE CLASSES

9. Application of Part 3

(1) Section 10 applies to an application under section 10(1)(b) of the Minor Works Regulation for registration as a registered minor works contractor for one or more types of minor works under one or more classes.

(2) Section 11 applies to the registration of a person as a registered minor works contractor under section 12(7) of the Minor Works Regulation.

(3) Section 12 applies to an application under section 14(1) of the Minor Works Regulation for the renewal of the registration of a registered minor works contractor registered under section 12 of that Regulation.

(4) Section 13 applies to an application under section 18(1) of the Minor Works Regulation for the restoration to the register of the name of a person who was registered under section 12 of that Regulation and whose name was removed from the register under section 17(1) of that Regulation.

(5) Sections 14, 15 and 16 apply to –

(a) an application under section 21(2) of the Minor Works Regulation for the addition to a registration of one or more additional classes or types of minor works; and

(b) an application under section 24(1) of that Regulation for the approval of the nomination of an additional individual as an authorized signatory.

(6) Section 17 applies to a request under section 26(1) of the Minor Works Regulation to review a decision or recommendation made in respect of an application referred to in subsection (1), (3), (4) or (5).

10. Fee for application for registration as registered minor works contractor for one or more types of minor works under one or more classes

(1) Subject to subsection (2), the fee to be paid under section 10(2)(b) of the Minor Works Regulation for an application for registration as a registered minor works contractor is –

(a) if the highest class of minor works to which the application relates is class I, \$2,530;

(b) if the highest class of minor works to which the application relates is class II, \$1,110; or

(c) if the application relates to class III minor works only, \$715.

(2) If 2 or more proposed authorized signatories are nominated in the application form, an additional amount specified in subsection (3) is to be paid in respect of each proposed authorized signatory other than the first one nominated for the highest class of minor works to which the application relates.

(3) The amount specified for the purposes of subsection (2) is –

(a) in the case of a proposed class I authorized signatory, \$2,090;

(b) in the case of a proposed class II authorized signatory, \$840;

(c) in the case of a proposed class III authorized signatory, \$530.

11. Fee for registration as registered minor works contractor for one or more types of minor works under one or more classes

The fee to be paid under section 12(7) of the Minor Works Regulation for the registration of a person as a registered minor works contractor is –

(a) if the highest class of minor works for which the person is registered is class I, \$595;

(b) if the highest class of minor works for which the person is registered is class II, \$595; or

(c) if the person is registered for class III minor works only, \$410.

12. Fee for application for renewal of registration for one or more types of minor works under one or more classes

The fee to be paid under section 14(2)(b) of the Minor Works Regulation for an application for the renewal of the registration of a registered minor works contractor is –

- (a) if the highest class of minor works to which the application relates is class I, \$1,100;
- (b) if the highest class of minor works to which the application relates is class II, \$810; or
- (c) if the application relates to class III minor works only, \$395.

13. Fee for application for restoration of name to register for one or more type of minor works under one or more classes

The fee to be paid under section 18(2)(b) of the Minor Works Regulation for an application for the restoration of the name of a person to the register is –

- (a) if the highest class of minor works to which the application relates is class I, \$1,250;
- (b) if the highest class of minor works to which the application relates is class II, \$880; or
- (c) if the application relates to class III minor works only, \$420.

14. Fee for application for registration of additional classes or types of minor works

(1) Subject to section 16, the fee to be paid under section 21(3)(b) of the Minor Works Regulation for an application for the addition to a registration of one or more additional classes or types of minor works is a fee equal to the aggregate of the amounts specified in subsection (2) in respect of each proposed authorized signatory nominated in the application form.

- (2) The amounts specified for the purposes of subsection (1) are –
 - (a) in the case of a proposed class I authorized signatory, \$2,240;
 - (b) in the case of a proposed class II authorized signatory, \$965;

- (c) in the case of a proposed class III authorized signatory, \$630.

15. Fee for application for approval of nomination of additional authorized signatory

Subject to section 16, the fee to be paid under section 24(2)(b) of the Minor Works Regulation for an application for the approval of the nomination of an additional individual as an authorized signatory is –

- (a) if the individual is a proposed class I authorized signatory, \$2,240;
- (b) if the individual is a proposed class II authorized signatory, \$965; or
- (c) if the individual is a proposed class III authorized signatory, \$630.

16. Calculation of fee when application for registration of additional classes or types of minor works and application for approval of nomination of additional authorized signatory are made at the same time

(1) The fee to be paid under section 21(3)(b) of the Minor Works Regulation for an application under section 21(2) of that Regulation and the fee to be paid under section 24(2)(b) of that Regulation for an application under section 24(1) of that Regulation are to be calculated in accordance with this section as a combined fee if –

- (a) the applicant indicates in the application form submitted for the application under that section 21(2) that the applicant is also making an application under that section 24(1); and
- (b) the 2 application forms are submitted together.

(2) The fee is a fee equal to the aggregate of the amounts specified in subsection (3) in respect of each individual nominated to be –

- (a) the authorized signatory of the applicant for the purposes of the application under section 21(2) of the Minor Works Regulation only;
 - (b) the authorized signatory of the applicant for the purposes of the application under section 24(1) of that Regulation only; or
 - (c) the authorized signatory of the applicant for the purposes of both applications.
- (3) The amounts specified for the purposes of subsection (2) are –
- (a) in the case of an individual mentioned in subsection (2)(a), the appropriate amount specified in section 14(2);
 - (b) in the case of an individual mentioned in subsection (2)(b), the appropriate amount specified in section 15;
 - (c) in the case of an individual mentioned in subsection (2)(c), the appropriate amount specified in section 14(2) or the appropriate amount specified in section 15, whichever is higher.

17. Fee for request for review: application relating to one or more types of minor works under one or more classes

(1) The fee to be paid under section 26(2)(b) of the Minor Works Regulation for a request to review a decision or recommendation made in respect of an application is a fee equal to the aggregate of the amounts specified in subsection (2) in respect of each proposed authorized signatory involved in the application, or part of the application, in respect of which the request is made.

- (2) The amounts specified for the purposes of subsection (1) are –
- (a) if the highest class of minor works in which the individual is involved is class I, \$1,100;
 - (b) if the highest class of minor works in which the individual is involved is class II, \$810;

- (c) if the individual is involved in class III minor works only, \$395.

PART 4

FEES RELATING TO PROVISIONAL REGISTRATION

18. Application of Part 4

(1) Section 19 applies to an application under section 64(1) of the Minor Works Regulation for registration as a registered minor works contractor (provisional) for one or more types of minor works under one or more classes.

(2) Section 20 applies to the registration of a person as a registered minor works contractor (provisional) under section 65(5) of the Minor Works Regulation.

(3) Section 21 applies to a request under section 26(1) of the Minor Works Regulation to review a decision made in respect of an application referred to in subsection (1).

19. Fee for application for registration as registered minor works contractor (provisional)

(1) Subject to subsection (2), the fee to be paid under section 64(2)(b) of the Minor Works Regulation for an application for registration as a registered minor works contractor (provisional) is –

- (a) if the highest class of minor works to which the application relates is class I, \$865;
- (b) if the highest class of minor works to which the application relates is class II, \$590; or
- (c) if the application relates to class III minor works only, \$590.

(2) If 2 or more proposed authorized signatories are nominated in the application form, an additional amount specified in subsection (3) is to be paid in

respect of each proposed authorized signatory other than the first one nominated for the highest class of minor works to which the application relates.

- (3) The amount specified for the purposes of subsection (2) is –
 - (a) in the case of a proposed class I authorized signatory, \$710;
 - (b) in the case of a proposed class II authorized signatory, \$480;
 - (c) in the case of a proposed class III authorized signatory, \$480.

20. Fee for registration as registered minor works contractor (provisional)

The fee to be paid under section 65(5) of the Minor Works Regulation for the registration of a person as a registered minor works contractor (provisional) is \$315.

21. Fee for request for review: application for registration as registered minor works contractor (provisional)

(1) The fee to be paid under section 26(2)(b) of the Minor Works Regulation for a request to review a decision made in respect of an application is a fee equal to the aggregate of the amounts specified in subsection (2) in respect of each proposed authorized signatory involved in the application, or part of the application, in respect of which the request is made.

- (2) The amounts specified for the purposes of subsection (1) are –
 - (a) if the highest class of minor works in which the individual is involved is class I, \$1,100;
 - (b) if the highest class of minor works in which the individual is involved is class II, \$810;

- (c) if the individual is involved in class III minor works only, \$395.

Clerk to the Executive Council

COUNCIL CHAMBER

2009

Explanatory Note

The object of this Regulation is to prescribe the fees payable in respect of the following matters under the Building (Minor Works) Regulation (L.N. 51 of 2009) (“Minor Works Regulation”) –

- (a) an application under section 10(1) of the Minor Works Regulation for registration as a registered minor works contractor;
- (b) the registration of a person as a registered minor works contractor under section 12(7) of the Minor Works Regulation;
- (c) an application under section 14(1) of the Minor Works Regulation for the renewal of the registration of a registered minor works contractor;
- (d) an application under section 18(1) of the Minor Works Regulation for the restoration to the register of the name of a person;

- (e) an application under section 21(1) or (2) of the Minor Works Regulation for the addition to a registration of one or more additional classes, types or items of minor works;
- (f) an application under section 24(1) of the Minor Works Regulation for the approval of the nomination of an additional individual as an authorized signatory;
- (g) an application under section 64(1) of the Minor Works Regulation for registration as a registered minor works contractor (provisional);
- (h) the registration of a person as a registered minor works contractor (provisional) under section 65(5) of the Minor Works Regulation; and
- (i) a request under section 26(1) of the Minor Works Regulation to review a decision of the Building Authority or a recommendation of a Minor Works Contractors Registration Committee.

**PREVENTION OF BRIBERY ORDINANCE
(AMENDMENT OF SCHEDULE 1) ORDER 2009**

(Made by the Chief Executive in Council under section 35 of the
Prevention of Bribery Ordinance (Cap. 201))

1. Commencement

This Order comes into operation on a day to be appointed by the Secretary for Development by notice published in the Gazette.

2. Public bodies

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

“113. Minor Works Contractors Registration Committee.”.

Clerk to the Executive Council

COUNCIL CHAMBER

2009

Explanatory Note

This Order amends Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201) to specify a Minor Works Contractors Registration Committee appointed under section 6(1) of the Building (Minor Works) Regulation (L.N. 51 of 2009) as a public body for the purposes of the Ordinance.

**BUILDING (ADMINISTRATION) (AMENDMENT)
REGULATION 2009**

(Made by the Secretary for Development under section 38 of the Buildings Ordinance (Cap. 123))

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Development by notice published in the Gazette.

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

Regulation 22(3) and (4) of the Building (Administration) Regulations (Cap. 123 sub. leg. A) is amended by repealing “14 days” and substituting “7 days”.

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

Regulation 45 is amended by repealing “and registered specialist contractor” and substituting “, registered specialist contractor and registered minor works contractor”.

Secretary for Development

2009

Explanatory Note

This Regulation amends the Building (Administration) Regulations (Cap. 123 sub. leg. A) to –

- (a) reduce the period within which an authorized person, registered structural engineer, registered geotechnical engineer, registered general building contractor, registered specialist contractor or registered minor works contractor is required to notify the Building Authority of a change in the appointment of any technically competent person from 14 days to 7 days; and
- (b) require a registered minor works contractor to notify the Building Authority of a change of business address.

**TECHNICAL MEMORANDUM
FOR SUPERVISION PLANS 2009**

Secretary for Development

2009

This Technical Memorandum is issued under Section 39A of the Buildings Ordinance (Cap. 123), and shall commence to have effect on a date to be appointed by the Secretary for Development by notice published in the Gazette.

**TECHNICAL MEMORANDUM FOR
SUPERVISION PLANS
2009**

**Issued by
the Secretary for Development
under
section 39A of the Buildings Ordinance
(Cap. 123)**

The Technical Memorandum, originally published under section 39A of the Buildings Ordinance (Cap. 123) in Special Supplement No. 5 to Gazette No. 9 Vol. 1 on 29 August 1997 and amended by the resolution of the Provisional Legislative Council passed under section 39A(3) of the Buildings Ordinance on 28 September 1997, came into operation on 22 December 1997.

The second edition of the Technical Memorandum, incorporating amendments for the integration of the site safety and quality supervision plan systems and supervision requirements of the registered geotechnical engineers, was published in Special Supplement No. 5 to Gazette No. 22/2005 on 3 June 2005 and came into operation on 31 December 2005.

This edition of the Technical Memorandum may be cited as the Technical Memorandum for Supervision Plans 2009. It incorporates amendments on site supervision plan systems and supervision requirements for the carrying out of minor works. It shall come into operation on a date to be appointed by the Secretary for Development by notice published in the Gazette.

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PART I PRELIMINARY

1. Citation and commencement

- 1.1 This Technical Memorandum is the Technical Memorandum for Supervision Plans issued by the Secretary for Development under section 39A of the Buildings Ordinance (Cap. 123).
- 1.2 This Technical Memorandum replaces the second edition of the Technical Memorandum published in Special Supplement No. 5 to Gazette No. 22/2005 on 3 June 2005 which came into operation on 31 December 2005. This Technical Memorandum shall commence to have effect on a date to be appointed by the Secretary for Development by notice published in the Gazette.

2. Application and scope

- 2.1 This Technical Memorandum supplements the provisions of the Buildings Ordinance governing the supervision of building works and street works.
- 2.2 This Technical Memorandum sets out the principles, requirements and operation of supervision plans. It deals in particular with:-
- (a) the principles for the preparation of supervision plans;
 - (b) the form and content of a supervision plan;
 - (c) 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;
 - (d) 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;

- (e) 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;
- (f) the general responsibilities of the site supervision personnel for the various types of building works and street works;
- (g) the qualifications and experience required for technically competent persons to be appointed for supervisory work under supervision plans;
- (h) the procedure, timing and sequence for the submission of supervision plans;
- (i) the circumstances in which an authorized person, registered structural engineer, registered geotechnical engineer, registered general building contractor, registered specialist contractor or registered minor works contractor is permitted to notify in retrospect for minor deviations from a supervision plan;
- (j) 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; and
- (k) the circumstances in which a supervision plan is not required for building works or street works.

2.3 For detailed requirements and guidance on the preparation of supervision plans, the Code of Practice, the relevant practice notes for authorized persons, registered structural engineers and registered geotechnical engineers and the relevant practice notes for registered contractors issued from time to time by the Building Authority should be referred to.

3. *Interpretation*

3.1 In this Technical Memorandum the following definitions apply:-

“*author*” means the authorized person, registered structural engineer, registered geotechnical engineer or authorized signatory who is responsible for preparing a supervision plan;

“*authorized signatory*” means the person appointed by the registered contractor to act for it for the purposes of the Buildings Ordinance, and authorized by the registered contractor to act on his behalf to exercise overall control of the contractor’s safety management structure for the project. The authorized signatory should be:-

- (a) if the registered contractor is a registered general building contractor or registered specialist contractor and is a body corporate, a person appointed by the registered contractor as referred to in section 8B(2)(d) of the Buildings Ordinance;
- (b) if the registered contractor is a registered general building contractor or registered specialist contractor and is a partnership, a partner appointed by all the partners for the purpose of section 8B(2)(d) of the Buildings Ordinance;
- (c) if the registered contractor is a registered general building contractor or registered specialist contractor and is a sole proprietorship, the contractor himself; or
- (d) if the registered contractor is a registered minor works contractor, the person whose name is entered in the register as an authorized signatory of the registered minor works contractor in section 12(7)(a)(ii), 19(4)(a)(ii), 23(7)(a)(ii) or 25(7) of the Building (Minor Works) Regulation or in the provisional register as an authorized signatory of the registered minor works contractor in section 65(5)(a)(ii) of the Building (Minor Works) Regulation.

“*Code of Practice*” means the code of practice for site supervision of building works and street works issued by the Building Authority;

“*designated area*” means the area with complex geological or groundwater conditions as specified in the practice notes for authorized persons, registered

structural engineers and registered geotechnical engineers and practice notes for registered contractors issued by the Building Authority;

“method statement” means a document setting out working procedures and sequences including those necessary to ensure safety management;

“minor works” means building works designated in the Building (Minor Works) Regulation as minor works;

“non-conformity” means a situation where the conditions on site, the methods or measures adopted or the completed works do not conform to the provisions of this Technical Memorandum, or the Code of Practice, or the Supervision Plan or supplementary documents such as the approved plans, method statements or statements of precautionary and protective measures;

“permanent works” means the construction activities or completed works which constitute a complete and permanent form of the building works or street works;

“practice notes for authorized persons, registered structural engineers and registered geotechnical engineers” means the practice notes issued by the Building Authority from time to time to provide guidance to authorized persons, registered structural engineers and registered geotechnical engineers for various aspects of building works and street works;

“practice notes for registered contractors” means the practice notes issued by the Building Authority from time to time to provide guidance to registered contractors for various aspects of building works and street works;

“quality supervision” means the necessary site supervision required to ensure that the building works or street works are carried out in general accordance with the provisions of the Buildings Ordinance and regulations, the plans approved in respect of such building works or street works by the Building Authority or the plans submitted to the Building Authority in respect of minor works which are

carried out in accordance with the simplified requirements, and any order made or condition imposed, pursuant to any provision of the Ordinance or regulations in that behalf, by the Building Authority;

“registered contractor” means a person whose name is for the time being on the registers maintained under section 8A of the Buildings Ordinance, who is appointed to carry out building works or street works on a site;

“scale” means an assessment of the size or extent of the building works or street works falling within the supervision plan under consideration;

“simplified requirements” means any requirements prescribed in the Building (Minor Works) Regulation as simplified requirements;

“site safety supervision” means the necessary site supervision required to check that the carrying out of building works or street works, including the sequence of construction, temporary works pertinent to all stages of building works or street works and the working environment are safe, such that the hazards from these works are controlled and risks to workers on site, all persons around the site, and adjoining properties and land are mitigated;

“technically competent person” means a person whose academic or professional qualifications or experience of building works or street works satisfy the requirements set out in this Technical Memorandum and the Code of Practice for a particular type of site supervision or management tasks. There are 5 grades as defined in this Technical Memorandum;

“temporary works” means the activity or construction which enables, supports or protects the permanent construction works, and which will be removed or become redundant on completion of the permanent construction works. Temporary works may include a particular sequence of activity within a method statement; and

“*works*” means the whole or a part of the works (other than minor works carried out in accordance with simplified requirements) which is the subject of an application for consent to commence works and which is the subject of a supervision plan; or in case of minor works carried out in accordance with simplified requirements, the subject of a supervision plan.

- 3.2 Unless the context otherwise requires, where applicable the terms and expressions in this Technical Memorandum shall have the same meaning assigned to them under the Buildings Ordinance.

PART II THE SUPERVISION PLAN

4. *General principles*

- 4.1 A supervision plan is defined under section 2(1) of the Buildings Ordinance. It is a plan setting out the plan of safety management of building works or street works. It should be drawn up by the authorized person (AP), the registered structural engineer (RSE), the registered geotechnical engineer (RGE), the authorized signatory (AS) of the registered contractor (RC) appointed for the building works or street works and any other person as necessary, to address quality supervision and characterise the particular site safety related features and hazards of the whole works. It should include details of the grade and number of technically competent persons (TCPs) required for supervision.
- 4.2 For the purpose of preparing a supervision plan and supervising the carrying out of building works or street works by an AP, RSE and RGE under sections 4(3) and 4B(2) of the Buildings Ordinance and by a RC under sections 9(5), 9(6), 9AA(4) and 9AA(6) of the same Ordinance respectively, safety management of building works or street works comprises:-
- (a) ensuring that the building works or street works are carried out in general accordance with the provisions of the Buildings Ordinance and regulations, the plans approved in respect of such building works or street works by the Building Authority or the plans submitted to the Building Authority in respect of minor works which are carried out according to the simplified requirements, and any order made or condition imposed, pursuant to any provision of the Ordinance or regulations in that behalf, by the Building Authority, hereafter referred to as quality supervision; and
 - (b) controlling hazards from building works or street works so as to mitigate the risk to:-
 - (i) the workers on site;
 - (ii) all persons around the sites; and

(iii) adjoining buildings, structures and land,
hereafter referred to as site safety supervision.

4.3 A supervision plan shall set out a management structure for site supervision which provides for:-

- (a) adequate safety measures to be implemented to assure a safe physical working environment on site;
- (b) adequate measures to be taken to check proper structural support for plant and machinery being operated on site, and that their operation is safe;
- (c) adequate control to be exercised on the sequence of construction works and temporary works to check that all intermediate stages of building works or street works are safe; and
- (d) adequate measures to be taken to check that the building works or street works are carried out in accordance with the provisions of the Buildings Ordinance and regulations, the plans approved by the Building Authority or the plans submitted to the Building Authority in respect of minor works which are carried out according to the simplified requirements, and any order made or condition imposed by the Building Authority.

4.4 A supervision plan is required to be lodged with the Building Authority prior to or at the time of application for consent to the commencement of building works or street works or as a result of carrying out urgent works. The supervision plan is a pre-requisite to the issue of consent by the Building Authority for the carrying out of the building works or street works referred to in the plan. For minor works which are carried out according to the simplified requirements, the supervision plans, if so required, should be submitted to the Building Authority not less than 7 days before commencement of the minor works.

5. *Safety management structure*

Safety management roles

5.1 The AP, RSE, RGE, AS and the TCP they appoint shall each have a role to play in safety management. TCPs are organized in four streams led respectively by the AS, RSE, RGE and AP and shall carry out the duties assigned to them. In carrying out functions for safety management, all persons shall adopt the current practice as set out in the Code of Practice, and where applicable and practicable, shall also adopt the best practice established by their respective professions from time to time.

5.1.1 The safety management functions of the RC and his stream are:-

- (a) to exercise all reasonable skill, care and diligence in following the part of the supervision plan prepared by the AS; to carry out safety management measures and actions during the course of the works in order to meet the objectives of section 4.3 of this Technical Memorandum;
- (b) to check that the building works or street works are carried out in accordance with the provisions of the Buildings Ordinance and regulations, the plans approved by the Building Authority or the plans submitted to the Building Authority in respect of minor works which are carried out according to the simplified requirements, and any order made or condition imposed by the Building Authority; and
- (c) to supervise, in accordance with the frequency set out in the supervision plan, that the works (including method statements and temporary works) shown on the prescribed plans are adhered to.

5.1.2 The safety management functions of the RSE and his stream are:-

- (a) to check and be satisfied, in accordance with the frequency set out in the supervision plan, that the RC's safety management system complies with the part of the supervision plan prepared by the AS;
- (b) to verify that conditions on site are consistent with assumptions made in the design of the permanent works and in the design of those method statements and temporary works which are shown on the prescribed plans;

- (c) to check that the building works or street works are carried out in general accordance with the provisions of the Buildings Ordinance and regulations, the plans approved by the Building Authority or the plans submitted to the Building Authority in respect of minor works which are carried out according to the simplified requirements, and any order made or condition imposed by the Building Authority; and
- (d) to supervise, in accordance with the frequency set out in the supervision plan, that the works (including method statements and temporary works) shown on the prescribed plans are adhered to.

5.1.3 The safety management functions of the RGE and his stream are:-

- (a) to check and be satisfied, in accordance with the frequency set out in the supervision plan, that the RC's safety management system complies with the part of the supervision plan prepared by the AS;
- (b) to verify that conditions on site are consistent with assumptions made in the design of the permanent works and in the design of those method statements and temporary works which are shown on the prescribed plans;
- (c) to check that the building works or street works are carried out in general accordance with the provisions of the Buildings Ordinance and regulations, the plans approved by the Building Authority or the plans submitted to the Building Authority in respect of minor works which are carried out according to the simplified requirements, and any order made or condition imposed by the Building Authority; and
- (d) to supervise, in accordance with the frequency set out in the supervision plan, that the works (including method statements and temporary works) shown on the prescribed plans are adhered to.

5.1.4 The safety management functions of the AP and his stream are:-

- (a) to check and be satisfied, in accordance with the frequency set out in the supervision plan, that the RC's safety management system complies with the part of the supervision plan prepared by the AS;
- (b) to check that the building works or street works are carried out in general accordance with the provisions of the Buildings Ordinance and regulations, the plans approved by the Building Authority or the plans submitted to the Building Authority in respect of minor works which are carried out according to the simplified requirements, and any order made or condition imposed by the Building Authority;
- (c) to compile and prepare non-conformity and rectification reports to the Building Authority under the circumstances set out in section 5.21 of this Technical Memorandum; and
- (d) to supervise, in accordance with the frequency set out in the supervision plan, that the works (including method statements and temporary works) shown on the prescribed plans are adhered to.

5.1.5 For the types of building works or street works which do not require the appointment of an RSE and/or RGE, the AP is to appoint TCPs who meet the requirements of the streams of the RSE and/or RGE in order to carry out the duties and functions in sections 5.1.2, 5.1.3, 5.12 and 5.13 of this Technical Memorandum.

5.2 Within each stream of the RC, the RSE, the RGE and the AP, TCPs of the appropriate grades shall be appointed, either full time or part time depending on the type of building works or street works involved. The TCPs shall exercise all reasonable skill, care and diligence in carrying out the duties and specific tasks and undertaking the responsibilities which are set out in this Technical Memorandum and the Code of Practice.

5.3 The AP, RSE, RGE and RC shall each appoint the highest grade TCP in his stream as representative to assist in carrying out their respective safety management functions. Alternatively, the AP, RSE, RGE and AS may act as the

respective representative to carry out such safety management functions (subject to their inspection frequency be not less than that required of the highest grade TCP within their respective stream).

- 5.4 The AS, AP, RSE and RGE shall be responsible for the operation of the respective parts of the supervision plans prepared by them and shall carry out such site inspection as may be necessary to satisfy themselves that the requirements of the supervision plans are implemented, and that their respective representatives and TCPs carry out their duties under the supervision plan and as required by this Technical Memorandum and the Code of Practice.

Common responsibilities of TCPs

- 5.5 In addition to the specified responsibilities set out in the Code of Practice, all TCPs shall have common responsibilities which are:-
- (a) to keep records and to report on their own work; and
 - (b) to co-operate with and communicate with the TCPs in other streams.

Site safety supervision tasks

- 5.6 Within each stream of the RC, the RSE, the RGE and the AP, the TCP's tasks shall be grouped into two types of supervision - engineering safety supervision and routine safety supervision.
- 5.7 Engineering safety supervision is carried out by TCPs of grades T4 and/or T5. Engineering safety supervision requires judgement and includes but is not confined to:-
- (a) consideration of the principles of working methods being used on site and their suitability for the conditions encountered;
 - (b) checking that specified aspects of work comply with design requirements where these are related to site safety;
 - (c) checking that site works comply with the supervision plan including method statements and precautionary and protective measures;
 - (d) verifying that the provisions of method statements and precautionary and protective methods are valid for the conditions as encountered on site;

- (e) notifying the designer of method statements and precautionary and protective measures of variations in site conditions which are inconsistent with assumptions made in the designer's design; and
- (f) ensuring that systems are in place and followed to record that safety supervision has been properly executed.

5.8 Routine safety supervision is carried out by the TCPs of grades T1 to T3. Routine safety supervision includes but is not confined to:-

- (a) monitoring that the site operations and working methods meet safety standards set out in the Buildings Ordinance and respective codes of practice issued by the Building Authority, and that unsafe practices are not being followed;
- (b) checking that general and minor safety aspects of the building works or street works are properly carried out; and
- (c) checking that work carried out on site complies with the approved, accepted or submitted method statements and precautionary and protective measures.

5.9 Specific tasks for each type of site safety supervision include but are not confined to those set out in the tables in the Code of Practice, under the following headings:-

- (a) General safety measures and minor safety aspects of building works and street works;
- (b) Structural support for and operation of plants and machinery; and
- (c) Temporary works and intermediate stages of the building works and street works.

Quality supervision tasks

- 5.10 Quality supervision includes but is not confined to:-
- (a) checking that the works are carried out in general accordance with the provisions of the Buildings Ordinance and regulations;
 - (b) checking that the works are carried out in accordance with the plans approved by the Building Authority or the plans submitted to the Building Authority in respect of minor works which are carried out according to the simplified requirements, and any order made or conditions imposed; and
 - (c) checking that the design assumptions agree with the actual site conditions.

AP's safety management structure

- 5.11 The AP shall appoint the highest grade TCP in his stream to be his representative who shall assist him in carrying out safety management functions as set out in section 5.1.4 of this Technical Memorandum. Alternatively, the AP may act as his own representative to carry out such safety management functions (subject to his inspection frequency be not less than that required of the highest grade TCP within his stream). The duties of the AP, the AP's representative and the TCPs in the AP's stream are set out in the Code of Practice.

RSE's safety management structure

- 5.12 The RSE shall appoint the highest grade TCP in his stream to be his representative who shall assist him in carrying out safety management functions as set out in section 5.1.2 of this Technical Memorandum. Alternatively, the RSE may act as his own representative to carry out such safety management functions (subject to his inspection frequency be not less than that required of the highest grade TCP within his stream). The duties of the RSE, the RSE's representative and the TCPs in the RSE's stream are set out in the Code of Practice.

RGE's safety management structure

- 5.13 The RGE shall appoint the highest grade TCP in his stream to be his representative who shall assist him in carrying out safety management functions as set out in section 5.1.3 of this Technical Memorandum. Alternatively, the RGE may act as his own representative to carry out such safety management

functions (subject to his inspection frequency be not less than that required of the highest grade TCP within his stream). The duties of the RGE, the RGE's representative and the TCPs in the RGE's stream are set out in the Code of Practice.

RC's safety management structure

- 5.14 The RC shall appoint the highest grade TCP in its stream to be the AS's representative who shall assist its AS in carrying out safety management functions as set out in section 5.1.1 of this Technical Memorandum. Alternatively, the AS may act as his own representative to carry out such safety management functions (subject to his inspection frequency be not less than that required of the highest grade TCP within the RC's stream). The duties of the AS, the AS's representative and the TCPs in the RC's stream are set out in the Code of Practice.

Interstream communication

- 5.15 Interstream communication shall include all communication arising out of the TCP's responsibility to co-operate and communicate with the TCPs in other streams.
- 5.16 The TCPs are deemed to have a duty to communicate directly with the TCPs in other streams with a priority no less than that they would apply to communication within their own stream.

Reports

- 5.17 Two types of reports must be prepared:-
- (a) site supervision reports; and
 - (b) non-conformity and rectification reports.
- 5.18 The procedures for preparing and submitting reports, including reports to the Building Authority if required, are set out in the following sections.

Site supervision reports

5.19 Site supervision reports shall be prepared by all the TCPs whenever they carry out supervision on site, including daily reports for full time TCPs. These reports shall be filed and maintained in the site office.

5.20 The site supervision report shall cover the following items:-

- (a) the items of works that have been inspected;
- (b) the results of inspection; and
- (c) notes of non-conformity.

Non-conformity and Rectification Reports

5.21 Non-conformity and rectification reports shall be compiled and prepared by the AP and submitted to the Building Authority. When the AP notes or is made aware of the non-conformity, he shall, under the following circumstances, compile and prepare the non-conformity and rectification report for submission to the Building Authority:-

- (a) the non-conformity shall pose an imminent danger; or
- (b) the non-conformity shall cause a material concern for safety or quality and the RC fails to comply with the rectification instruction .

5.22 The Code of Practice sets out how non-conformity is dealt with at the level of TCP.

6. *Supervision requirements*

6.1 The classes of supervision appropriate to a type of building works or street works are defined by means of the number and grades of TCPs and their frequency level of inspection of the works. The minimum requirements on the grades of TCPs and frequency level of inspection appropriate to various types of building works or street works are set out in Table 1 in this Technical Memorandum. The number of TCPs and their frequency level of inspections should be increased with the complexity of the works. Complexity should be assessed on the basis of the criteria including the types of building works or street works, the construction and span of structure, the locality and the effect of

the works to adjacent buildings, structures, lands, streets and utilities. Details of the method of assessment of complexity and the extent that the number of TCPs and their frequency level of inspections should be increased are set out in the Code of Practice.

- 6.2 The minimum qualifications and experience required for each grade of TCP are set out in Table 2 in this Technical Memorandum.
- 6.3 From time to time, the Building Authority may review the details in the Code of Practice including an assessment of the supervision requirements for different types of building works or street works, the qualifications and experience of the TCPs and their frequency of attendance on site so as to reflect good practice of the building industry and profession current at the time.

Types of works

- 6.4 Subject to section 11 of this Technical Memorandum, supervision plans are required to be submitted for the following types of building works or street works:-
- (a) types of building works
 - (i) demolition
 - (ii) ground investigation field works
 - (iii) foundation
 - (iv) site formation
 - (v) excavation and lateral support
 - (vi) cap / footing / basement
 - (vii) superstructure
 - (viii) curtain wall / cladding
 - (ix) addition and alteration
 - (x) slope / retaining wall / buried services repairs
 - (xi) tunnel works
 - (b) street works

Flexible deployment of TCPs

- 6.5 If more than one TCP is required under any stream of supervision, the AP, RSE, RGE or RC may assign one or more TCP to cover the duties and responsibilities of more than one role provided that:-
- (a) the TCP who is appointed satisfies the requirements of the highest grade of TCP specified; and
 - (b) the TCP undertakes inspections at a frequency no less than the frequency derived in accordance with the Code of Practice and Table 1 in this Technical Memorandum.
- 6.6 For the streams of the AP, RSE and RGE, the AP, RSE and RGE may appoint the same TCP to cover the roles in two or three streams, as the case may be, provided that:-
- (a) the TCP satisfies the grade requirements under all the related streams;
 - (b) the TCP satisfies the requirements of the highest grade of TCP specified; and
 - (c) the TCP undertakes inspections at a frequency no less than the frequency derived in accordance with the Code of Practice and Table 1 in this Technical Memorandum.
- 6.7 The AP, RSE, RGE or their TCPs cannot combine supervision duties with the TCPs' within the RC's stream. AS and his TCPs cannot act as TCPs within the stream of AP, RSE or RGE.
- 6.8 One supervision plan may cover more than one type of building works or street works provided that the respective plans of the building works or street works have been approved by the Building Authority or the respective plans of minor works have been submitted to the Building Authority according to the simplified requirements. In the case of such a combined supervision plan, the separate TCP roles may be combined together into the duties of one or more persons provided that the requirements for qualifications and experience are satisfied and the

combined inspection frequency is not less than that under the separate supervision plans.

- 6.9 When there is an existing supervision plan for a type of building works or street works, and additional or new work of the same type is to be carried out under the same AP, RSE, RGE and AS, an amended supervision plan may be submitted incorporating the work currently supervised under one or more existing supervision plans.

7. *Form and content of a supervision plan*

- 7.1 A supervision plan comprises different parts to be prepared by different authors as set out below:-

	Part	Author
(a)	Preamble	AP
(b)	Part I	AP
(c)	Part II	RSE
(d)	Part III	RGE
(e)	Part IV	AS

Standard forms for the above types of supervision plans are set out in the Code of Practice.

- 7.2 The plan is to be drawn up by the respective authors to form a fully co-ordinated and documented supervision plan with supporting appendices.

Preamble

- 7.3 Item (1) shall provide background information on the site and the proposed building works or street works known at the time of preparation.
- 7.4 Item (2) requires the AP, RSE, RGE and AS to undertake that their supervision will be carried out in accordance with the plan, this Technical Memorandum

and the Code of Practice. It also requires them to undertake that the management and execution of site supervision of the works covered by the plan will be carried out in the manner prescribed by the provisions of the Buildings Ordinance and regulations.

Part I

- 7.5 Item (3) requires the AP to state the type of building works or street works, the date of approval of plans or date of submission of plans in respect of minor works which are carried out according to the simplified requirements and the assessment of the scale of the works.
- 7.6 Item (4) requires the AP to identify the supervision input of different grades of TCPs, and provide the combined supervision input of the TCPs for one or more types of building works or street works under one supervision plan prepared by the AP. Detailed requirements are set out in the Code of Practice.
- 7.7 Item (5) requires the AP to identify the particulars and frequency level of site inspection of respective grade of TCP for site supervision. Detailed requirements are set out in the Code of Practice.
- 7.8 Item (6) requires the AP to identify the particulars and inspection frequency of respective grade of TCP for site supervision during critical stages of the works. Detailed requirements are set out in the Code of Practice.
- 7.9 Item (7) requires the AP to declare that the plan is in compliance with this Technical Memorandum, the Code of Practice and the requirements of the Buildings Ordinance and regulations, and he has also read and confirmed the Preamble of the plan.

Part II

- 7.10 Item (8) requires the RSE, taking into account the type of works specified in Part I of the plan, to identify the supervision input of different grades of TCPs, and provide the combined supervision input of the TCPs for one or more types

of building works or street works under one supervision plan prepared by the RSE. Detailed requirements are set out in the Code of Practice.

- 7.11 Item (9) requires the RSE to identify the particulars and frequency level of site inspection of respective grade of TCP for site supervision. Detailed requirements are set out in the Code of Practice.
- 7.12 Item (10) requires the RSE to identify the particulars and inspection frequency of respective grade of TCP for site supervision during critical stages of the works. Detailed requirements are set out in the Code of Practice.
- 7.13 Item (11) requires the RSE to declare that the plan is in compliance with this Technical Memorandum, the Code of Practice and the requirements of the Buildings Ordinance and regulations, and he has also read and confirmed the Preamble of the plan.

Part III

- 7.14 Item (12) requires the RGE, taking into account the type of works specified in Part I of the plan, to identify the supervision input of different grades of TCPs, and provide the combined supervision input of the TCPs for one or more types of building works or street works under one supervision plan prepared by the RGE. Detailed requirements are set out in the Code of Practice.
- 7.15 Item (13) requires the RGE to identify the particulars and frequency level of site inspection of respective grade of TCP for site supervision. Detailed requirements are set out in the Code of Practice.
- 7.16 Item (14) requires the RGE to identify the particulars and inspection frequency of respective grade of TCP for site supervision during critical stages of the works. Detailed requirements are set out in the Code of Practice.
- 7.17 Item (15) requires the RGE to declare that the plan is in compliance with this Technical Memorandum, the Code of Practice and the requirements of the

Buildings Ordinance and regulations, and he has also read and confirmed the Preamble of the plan.

Part IV

- 7.18 Item (16) requires the AS, taking into account the type of works specified in Part I of the plan, to identify the supervision input of different grades of TCPs, and provide the combined supervision input of the TCPs for one or more types of building works or street works under one supervision plan prepared by the AS. Detailed requirements are set out in the Code of Practice.
- 7.19 Item (17) requires the AS to identify the particulars and frequency level of site inspection of respective grade of TCP for site supervision. Detailed requirements are set out in the Code of Practice.
- 7.20 Item (18) requires the AS to identify the particulars and inspection frequency of respective grade of TCP for site supervision during critical stages of the works. Detailed requirements are set out in the Code of Practice.
- 7.21 Item (19) requires the AS to declare that the plan is in compliance with this Technical Memorandum, the Code of Practice and the requirements of the Buildings Ordinance and regulations, and he has also read and confirmed the Preamble of the plan.

8. *Procedures for submission of supervision plans*

- 8.1 The supervision plan shall be lodged with the Building Authority by the AP prior to or at the same time as the application for the first consent for commencement of building works or street works. For minor works carried out according to the simplified requirements, the supervision plans, if so required, shall be submitted to the Building Authority not less than 7 days before commencement of the minor works.

8.2 If the proposals for subsequent stages of the work change or if there is new information which invalidates the submitted supervision plan, then a revised supervision plan shall be lodged.

8.3 If there is a change of TCP other than those cases referred to in section 9 of this Technical Memorandum, the AP, RSE, RGE and AS, as the case may be, shall submit a revised supervision plan to the Building Authority within 7 days of the change and only the amendment of the relevant part of the supervision plan needs to be submitted without the other parts of the supervision plan.

9. *Circumstances in which minor deviations from a supervision plan may be notified in retrospect*

9.1 If a TCP is absent or is likely to be absent because of accident, illness or emergency, a replacement TCP of equal or better qualifications and experience shall be posted to the site within 48 hours. The name and identity card number of the replacement TCP shall be entered into the site register until such time as a further appointment is made or until the original TCP returns to duty. The AP, RSE, RGE and AS, as the case may be, shall notify the Building Authority of such arrangements within 7 days.

9.2 If a TCP is absent for reasons other than those described in section 9.1 of this Technical Memorandum, the representative of his stream shall check that an entry is made in the site register explaining the circumstances which have arisen and the action which is to be taken.

10. *The method and timing of notification of, and the amendment procedures for, a proposed or actual deviation from the supervision plan, including deviations caused by an emergency*

10.1 Should any urgent work, accident, emergency or other special circumstances render it impracticable to comply with the requirements of a supervision plan, then the plan may be deviated from for a maximum period of 48 hours after

which time alternative arrangements shall be made which are equivalent to or better than the original requirements of the supervision plan. The Building Authority shall be notified within 48 hours after such work has been commenced. The AP, RSE, RGE and AS shall prepare a revised supervision plan as a result of the urgent works.

10.2 An increase in the number of TCP provided is not a deviation from a supervision plan.

11. *Circumstances in which a supervision plan is not required for building works or street works*

A supervision plan is not required for building works which satisfy the criteria set out below.

Demolition

- the building is not located in area number 1 of the scheduled areas specified in the Fifth Schedule of the Buildings Ordinance;
- the total height of the building does not exceed 10m;
- the storey height of the building does not exceed 5m;
- the span of any structural element of the construction does not exceed 6m;
- there are no cantilever structures exceeding 1m in span in the building;
- there are no prestressed concrete elements in the building;
- the building is not retaining any ground level difference exceeding 1.5m; and
- there are no other buildings or streets within 5m of the building.

Site Formation

- the maximum gradient across the lot from boundary to boundary is not more than 15 degrees;
- the overall gradient of an area bounded by lines 10m outside the lot boundary in any direction is less than 15 degrees;

- there is no slope within the area 10m outside the lot boundary steeper than 30 degrees or higher than 1.5m;
- there is no retaining wall or terrace wall either within the lot or within the area 10m outside the lot which is higher than 1.5m;
- no retaining walls or terrace walls higher than 1.5m are to be constructed;
- no slopes steeper than 30 degrees nor higher than 1.5m are to be constructed;
- the combined height of retaining wall and slope constructed shall not exceed 1.5 m;
- the retaining height to breadth ratio of retaining walls constructed shall not be greater than two; and
- the retaining walls shall be constructed of masonry or concrete.

Excavation

- the depth of excavation is less than 2.5m; and
- there are no roads, buildings, other structures, slopes steeper than 30 degrees or water-mains of 75mm or greater in diameter within the profile described by a line drawn at 45 degrees to the horizontal from the perimeter of the base of excavation to the ground surface.

Superstructure

- the total height of the building does not exceed 10m;
- the span of any structural element of the building does not exceed 6m;
- the structural elements are constructed of reinforced concrete; and
- the construction floor area of the building is less than 500 square metres.

Drainage

- all drainage works.

(Note that excavation of significant depth is covered by the rules for excavation and lateral support works)

Alteration and Addition Works

- work not requiring demolition or structural alteration.

Building Repairs

- all building repairs.

Minor Works

- all Class II minor works.
- all Class III minor works.

PART III MISCELLANEOUS INFORMATION

List of Tables

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| Table 1 | Minimum supervision requirements for different types of building works or street works |
| Table 2 | Minimum qualifications and experience required for each grade of TCP for site supervision |

Table 1 Minimum supervision requirements for different types of building works or street works

		Grades of TCP and Minimum Frequency Levels of Inspection																								
Type of building works and street works		RC's Stream					AP's Stream						RSE's Stream					RGE's Stream								
		T1	T2	T3	T4	T5	AS	T1	T2	T3	T4	T5	AP	T1	T2	T3	T4	T5	RSE	T1	T2	T3	T4	T5	RGE	
Ground investigation field works		5	-	-	4	-	1	-	-	3	-	-	1	-	-	-	-	-	-	-	-	5	-	4	1	
Building works with significant geotechnical content (Note 4)	Foundation (Note 5)	5	5	-	4	-	1	-	-	4	2	-	1	-	-	5	-	4	1	-	-	5	-	4	1	
	Others	5	4	-	4	-	1	-	-	4	2	-	1	-	-	4	-	3	1	-	-	5	-	4	1	
Foundation works (other than foundation works with significant geotechnical content)		5	5	-	4	-	1	-	-	4	2	-	1	-	-	5	-	4	1	-	-	-	-	-	-	
All other building works (other than minor works) or street works		5	-	4	4	-	1	-	-	4	2	-	1	-	-	4	-	3	1	-	-	-	-	-	-	

Class I minor works	Works where only appointment of AP is required	5	-	4	-	-	1	-	-	4	-	-	1	-	-	-	-	-	-	-	-	-	-	-
	Additional TCPs for works where RSE is required	-	-	-	-	-	-	-	-	-	-	-	-	-	4	-	-	1	-	-	-	-	-	-
	Additional TCPs for works where RGE is required	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	5	-	-	-	1

Notes to Table 1

1. Level 1 = Inspection as and when required
Level 2 = Monthly inspection
Level 3 = Fortnightly inspection
Level 4 = Weekly inspection
Level 5 = Full-time inspection during site working hours
2. Higher grade TCP and/or more frequent site inspection up to full time may be required at critical stages. Further guidance is given in the Code of Practice.
3. For the qualification and experience required for each grade of TCP, refer to Table 2 of this Technical Memorandum. Further guidance is given in the Code of Practice.
4. The type of building works that are regarded as building works with significant geotechnical content are set out in the Code of Practice.
5. The type of foundation works, including those in the designated area, that are regarded as building works with significant geotechnical content are set out in the Code of Practice.

Table 2 Minimum qualifications and experience required for each grade of TCP for site supervision

Grade of TCP	Minimum qualifications and experience for each grade of TCP for site supervision
T1	A certificate or diploma holder with minimum total relevant working experience of 2 years to the satisfaction of the Building Authority.
T2	A higher certificate or higher diploma holder with minimum total relevant working experience of 3 years to the satisfaction of the Building Authority.
T3	A higher certificate or higher diploma holder with minimum total relevant working experience of 5 years, or a degree holder with minimum total relevant working experience of 2 years to the satisfaction of the Building Authority.
T4	A degree holder with minimum total relevant working experience of 4 years to the satisfaction of the Building Authority or a registered professional.
T5	A registered professional with minimum total relevant working experience of 5 years to the satisfaction of the Building Authority.

Notes to Table 2

- (1) “relevant working experience” - means such working experience as may from time to time be recognised by the Building Authority as being relevant to the duties of a TCP of appropriate grade under each stream of supervision
“total relevant working experience” - means relevant working experience aggregated by a method recognised by the Building Authority
- (2) A person who satisfies the Building Authority by reason of his training, experience and skill in safety management that he is a fit and proper person to be qualified for a particular grade of TCP shall be deemed to be so qualified for the purpose of employment in safety management as required in this Technical Memorandum. Further guidance is given in the Code of Practice.
- (3) For some grades of TCP, the absence of the required qualifications may be compensated for by extra relevant working experience according to guidelines to be determined by the Building Authority. Further guidance is given in the Code of Practice, Practice Notes for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers or Practice Notes for Registered Contractors.
- (4) Details of the minimum qualifications and experience required for each grade of TCP for site supervision are given in the Code of Practice.

Proposed Level of Fees under Building (Minor Works) (Fees) Regulation ("B(MW)(F)R")

[Note: Section number in square brackets denotes corresponding section number in B(MW)(F)R]

(a) Registration as Minor Works Contractors Operating as Natural Persons

	Application	New registration (inclusion in register for 3 years) <i>[Section 4]</i>	Renewal (retention in register for 3 years) <i>[Section 5]</i>	Restoration (retention in register for 3 years) <i>[Section 6]</i>	Addition of minor works item to existing registration <i>[Section 7]</i>
(i)	For carrying out item(s) of Class III minor works with any item being applied for by virtue of experience	\$305	\$105	\$105	\$305
(ii)	For carrying out item(s) of Class III minor works for cases other than (i)	\$155	\$105	\$105	\$155

(b) Registration as Minor Works Contractors Operating as Non-natural Persons

	New registration	Basic application (appointment of first authorized signatory) <i>[Section 10(1)]</i>	Each additional authorized signatory (in addition to basic application) <i>[Section 10(2) and (3)]</i>	Registration fee (inclusion in register for 3 years) <i>[Section 11]</i>
(i)	For carrying out all Classes of minor works	\$2,530	\$2,090	\$595
(ii)	For carrying out Class II and Class III minor works	\$1,110	\$840	\$595
(iii)	For carrying out Class III minor works	\$715	\$530	\$410

	Renewal of registration and restoration	Renewal (retention in register for 3 years) <i>[Section 12]</i>	Restoration (retention in register for 3 years) <i>[Section 13]</i>
(a)	For carrying out all Classes of minor works	\$1,100	\$1,250
(b)	For carrying out Class II and Class III minor works	\$810	\$880
(c)	For carrying out Class III minor works	\$395	\$420

(b) Registration as Minor Works Contractors Operating as Non-natural Persons (Cont'd)

	Additional registration	For each authorized signatory	
		Addition of minor works class/type (for class/type of minor works not registered in existing registration) <i>[Section 14]</i>	Addition of authorized signatory (for class/type of minor works already registered in existing registration) <i>[Section 15]</i>
(i)	For carrying out all Classes of minor works	\$2,240	
(ii)	For carrying out Class II and Class III minor works	\$965	
(iii)	For carrying out Class III minor works	\$630	

(c) Registration as Minor Works Contractors (Provisional) Operating as Non-natural Persons

	Provisional Registration	Basic application (appointment of first authorized signatory) <i>[Section 19(1)]</i>	Each additional authorized signatory (in addition to basic application) <i>[Section 19(2) and (3)]</i>	Registration fee (inclusion in provisional register) <i>[Section 20]</i>
(i)	For carrying out all Classes of minor works	\$865	\$710	\$315
(ii)	For carrying out Class II and Class III minor works	\$590	\$480	\$315
(iii)	For carrying out Class III minor works	\$590	\$480	\$315

(d) Review of Decisions on Registration Applications

	Type of Applicant	Highest class of minor works contained in application for review	Request for review (for each authorized signatory/ individual)
(i)	Non-natural person (including provisional registration) <i>[Sections 17 and 21]</i>	Class I	\$1,100
		Class II	\$810
		Class III	\$395
(ii)	Natural person <i>[Section 8]</i>	Class III	\$105