

《建築物(檢驗及修葺)規例》、《2011年建築物(管理)(修訂)規例》、
《2011年建築物(小型工程)(修訂)規例》及
《2011年〈2011年建築物(修訂)條例〉(生效日期)公告》
小組委員會

政府當局就 2011 年 12 月 2 日會議的跟進事項的回應

本文件闡述政府當局為回應小組委員會於 2011 年 12 月 2 日的會議上各項與強制驗樓計劃及強制驗窗計劃有關的跟進事項。

不同階段的訂明表格

2. 政府當局已於 2011 年 12 月 5 日向小組委員會發出的回應(立法會 CB(1)536/11-12(01)號文件)中，夾附勾劃遵從強制驗樓及驗窗計劃的法定通知的各主要步驟的流程圖。除了其他文件及圖則外，註冊檢驗人員及合資格人士須在訂明檢驗及修葺的不同階段呈交訂明表格。這些表格包括：

(a) 就註冊檢驗人員而言：

- (i) 委任註冊檢驗人員進行樓宇訂明檢驗及訂明修葺通知；
- (ii) 完成樓宇訂明檢驗證明書；及
- (iii) 完成樓宇訂明修葺證明書；

(b) 就合資格人士而言：

- (i) 委任合資格人士進行窗戶訂明檢驗及訂明修葺通知；及
- (ii) 完成窗戶訂明檢驗和訂明修葺證明書。

訂明表格的擬稿已夾附於附件供議員參考。現階段只備有英文版本，但在強制驗樓及驗窗計劃生效時，我們會發出表格的雙語版本。需要留意的是，這些表格仍可能會作進一步修訂。

不遵從法定通知下的訂明時限

3. 正如政府當局在 2011 年 12 月 5 日的會議上解釋，建築事務監督會在強制驗樓/驗窗計劃的法定通知上，對訂明檢驗及修葺的不同階段施加時限。擬議的時限已於上文提及的流程圖內列出。

4. 在強制驗樓及驗窗計劃的法定通知書未獲遵從情況下，屋宇署會採取所需的跟進及執法行動，有關的行動亦已列明於流程圖上。簡而言之，當訂明的時限屆滿後，屋宇署會向有關的業主/業主立案法團(法團)發出警告信。如該等人士沒有合理辯解而繼續不遵從通知書的規定，在強制驗樓計劃下，屋宇署會考慮對有關業主/法團提出檢控。而在強制驗窗計劃下，屋宇署會向有關業主/法團發出罰款通知書，定額罰款為 1,500 元。倘該處所的業主/法團無合理辯解而持續不遵從通知書的規定，屋宇署可向他們發出另一份罰款通知書或提出檢控。

5. 屋宇署亦會考慮安排為失責的業主/法團進行訂明檢驗/修葺工程，並且可向業主/法團追討檢驗/修葺工程的費用，以及徵收不多於工程費用 20%的附加費。

檢驗窗戶的標準

6. 就訂明檢驗而言，政策原意是註冊檢驗人員/合資格人士的首要職責是確保建築物/窗戶的安全。此意向已反映於《建築物(檢驗及修葺)規例》(《規例》)的第 5(1)條中，該條文列明，訂明檢驗旨在「確定建築物是否安全，或是否可變得危險或已變得危險」等。

7. 除了確保進行檢驗的窗戶的安全外，合資格人士如在進行訂明檢驗或監督窗戶修葺工程的過程中，發現任何與窗戶安全有關的緊急情況，亦須按照(將由《2011 年建築物(修訂)條例》(2011 年第 16 號條例)

修訂的)《建築物條例》(第 123 章)通知建築事務監督。屋宇署會根據《建築物條例》的相關條文，處理這些緊急個案(請參閱該條例的第 30E(7)條)。然而，向建築事務監督通報任何與窗戶有關的違例建築工程(僭建物)並不是對合資格人士的法定要求(除非該等窗戶在訂明檢驗或修葺期間構成緊急情況)。

8. 反之，根據《建築物條例》第 30D(5)(b)條，獲委任為樓宇進行訂明檢驗的註冊檢驗人員，有責任就任何在樓宇公用部分及外牆的違例建築工程通知建築事務監督。就此，註冊檢驗人員如在進行訂明檢驗期間發現樓宇外牆有違例窗戶，必須進行通報。

9. 屋宇署因應議員於 2011 年 12 月 2 日的會議上提出的意見，會在強制驗窗計劃的完成規定事項證明書中加入附註，提醒樓宇業主注意，已遵從通知書上的規定，並不會賦予並非按照批准圖則建造的窗戶「合法」的地位。

「窗戶」的定義

10. 「窗戶」一般被理解為在樓宇牆上可透氣或透光，並裝有窗框及窗格玻璃的開口，這是公眾和業界充分理解的普遍用語。因此，我們認為沒有需要為此在相關規例中制訂定義。

11. 《強制驗樓計劃及強制驗窗計劃作業守則》的擬稿內已載述須檢驗及修葺的窗戶組件，為業界和公眾提供指引，例如：鉚釘及螺絲；窗鉸；窗槽、定位滑塊及滑撐；窗格玻璃；密封劑及填縫料；以及窗框。

《規例》第 14(1)(a)條

12. 《規例》第 14(1)(a)條規定根據《建築物條例》第 30E(1)(a)條獲委任的合資格人士須證明該人士已按照本條例，就窗戶進行訂明檢驗。根據《釋義及通

則條例》(第 1 章)，在《規例》中使用的「本條例」一詞，意指《建築物條例》及在該條例下的任何附屬法例(包括《規例》)。

13. 事實上，進行訂明檢驗的職責是於主體法例(即《建築物條例》中)訂立。只有遵從《建築物條例》內訂明的要求(包括於附屬法例中規定的訂明檢驗詳情)有關職責方屬已履行。有關訂明檢驗或訂明修葺的合資格人士的委任及職責基本上是於《建築物條例》第 30E 條內訂出，而有關職責的詳情則是在《規例》內訂立。在《建築物條例》第 30E(3)條下，合資格人士必須(a)親自進行訂明檢驗，及(b)全面遵守本條例。就(a)項而言，《規例》並沒有明確要求合資格人士「親身」進行訂明檢驗。如按議員於 2011 年 12 月 2 日會議上的建議將第 14(1)(a)條中的「本條例」以「本規例」取代，便會為根據第 14(1)條擬備的證明書是否只限適用於《規例》留有疑問。就(b)項而言，在進行訂明檢驗時，合資格人士亦須遵守《建築物條例》及其規例與訂明檢驗有關的條文。舉例來說，本委員會正審議在《建築物條例》下制訂的《2011 年建築物(小型工程)(修訂)規例》，處理或與訂明檢驗及訂明修葺有關的小型工程項目。如證明書只限適用於《規例》，須履行這些職責的要求便無從生效。

14. 再者，「按照本條例進行訂明檢驗/訂明修葺」這措辭廣泛及一貫地應用於《規例》。此措辭如實地反映立法原意。

15. 第 14(1)(a)條下的證明書的效力並不局限於該條文。它陳述根據《建築物條例》第 30E 條遵從該條例的事實。該證明書不單證明一項訂明檢驗已按本條例進行，更證明合資格人士已按本條例進行有關的訂明檢驗。所以政府當局認為並不適宜在《規例》第 14(1)(a)條以「本規例」取代「本條例」。

詳細調查

16. 屋宇署會查核所有由註冊檢驗人員根據《規例》第 18(1)(b)條就詳細調查呈交的建議，亦會查核詳細調查建議書內的全部資料，然後在收到註冊檢驗人員進行詳細調查的通知及建議後的 28 日內，根據《規例》第 19(2)條決定是否給予認可。

供訂明修葺之用的修訂建議及合約樣版

17. 倘有證據顯示，註冊檢驗人員在進行訂明檢驗期間沒有找出明顯的欠妥／不完備之處，該註冊檢驗人員於執行在《規例》下的職責時可能有不當行為或疏忽，並因此可能遭受紀律行動。業主／法團亦可就樓宇在原先檢驗中，延誤找出明顯欠妥之處而構成的損失，向該註冊檢驗人員提起民事訴訟，追討損害賠償。

18. 為方便業主監察修葺工程進度，《規例》第 30 條訂明註冊檢驗人員/合資格人士須將向建築事務監督呈交的文件副本，交予由該人員代為進行訂明檢驗/修葺的人。這些文件包括第 12(2)條下的檢驗報告及修葺建議，及(如有的話)第 22(2)條下經修訂的修葺建議。另外需要留意的是，由於強制驗樓計劃只要求修葺工程足以令樓宇變得安全，我們已在《作業備考》的擬稿中列明，如業主希望在強制驗樓計劃進行檢驗及修葺工程時一併進行額外工程，有關工程須與基本的修葺工程在有關文件中分開列出。在《建築物條例》下，已有足夠的制裁和紀律條文，對付註冊檢驗人員在進行訂明檢驗及監督訂明修葺方面的不良行為。屋宇署將在抽查期間及接獲投訴後調查懷疑違規個案。

19. 我們注意到很多樓宇業主以往可能未有進行大型樓宇保養及維修工程的經驗，亦可能不太熟習招標程序，特別是評核接獲的招標價格。樓宇業主如對有

關程序有疑問，可向香港房屋協會(房協)或市區重建局(市建局)尋求意見。為在這方面便利業主的工作，房協在諮詢廉政公署後，制訂了一套《樓宇維修實務指南》，當中包含為招標程序而設的指引/標準表格/清單，供樓宇業主使用。業主亦可以參考由房協、市建局及香港測量師學會發出的維修指引，內容包括考慮評核投標文件的客觀重點。這些文件將對業主/法團要求有意的投標者呈交必須的資料作出指引，包括其公司的資源及可分配以進行樓宇檢驗及修葺的時間等，以協助業主考慮標書及管理他們的代理人。香港測量師學會亦已出版了一套《裝飾、維修及保養工程標準合約》，為樓宇業主訂明必要的條款及細則，使他們可充份保障自己的權益，並可在註冊檢驗人員/承建商一旦未有履行其服務至令人滿意的水平時(例如未有經業主事先同意而進行工程)，作出索償。

20. 考慮到強制驗樓/驗窗計劃行將實施，我們會邀請房協、市建局及各專業學會相應地更新上述各份文件。我們會與這些機構商討如何建議業主於其合約中加入特定條款，使業主/法團在註冊檢驗人員未有取得建築事務監督事先認可而進行詳細調查時無需繳付相關費用。

21. 為能更妥善地控制工程費用，並防止發生因隨後修葺工程的規模較預期為大的工程變動而引起的爭拗，我們建議應在合約中就可能出現的修葺項目訂立單位收費率列表。修葺費用總額屆時便可按實際完成的工程及實地量度所得算出。我們會與房協、市建局及各專業學會研究，可否於標準招標文件/合約中包含一張可能出現的修葺項目的單位收費率列表。

「由他人代為進行訂明檢驗的人」

22. 在《建築物條例》第 30D(1)(a)條下，任何「須由他人代為進行訂明檢驗的人」須委任一名註冊檢驗

人員進行有關訂明檢驗。視乎情況而定，此名由他人代為進行訂明檢驗的人，可能是業主(包括個別業主、共同業主或法團)或擔任業主代理人的管理公司。

23. 鑑於上述規定，當註冊檢驗人員已把檢驗報告的副本交予委任他進行訂明檢驗的人，有關人員已履行根據《規例》第 30(1)(a)條須交付檢驗報告副本的職責。換言之，倘註冊檢驗人員是由法團或管理公司委任，有關人員在《規例》下並無責任把檢驗報告的副本提供予個別業主。

24. 我們認同一般而言業主有權取得與其樓宇的法定通知有關的文件。此權利亦已在《建築物條例》第 36G 條獲保障，該條文容許個別人士向屋宇署提出申請，索取註冊檢驗人員所呈交的檢驗報告及修葺建議的副本。由於要求索取的文件可能載有第三者資料，屋宇署有必要因應個別個案的情況行使酌情權，處理他們的申請。由於個別業主在有關樓宇公用部分和外牆的檢驗和修葺建議中有直接權益和法定參與，屋宇署一般都會同意業主的的要求。

發展局
屋宇署
2011 年 12 月

中文姓名
Name in Chinese (In accordance with the registration record)

RI / /
Certificate of Registration Number

Telephone Number : _____ Fax Number : _____

Signature of the person for whom the prescribed inspection is to be carried out and affixed with company seal (if applicable) _____ day month year 20

Part B Confirmation of appointment by the registered inspector

(To be completed by the registered inspector appointed)

I, _____,
Name in English (In accordance with the registration record)

中文姓名 Name in Chinese (In accordance with the registration record)

confirm that in accordance with the provisions of section 11 of the Building (Inspection and Repair) Regulation, I have been appointed as the registered inspector detailed in **Part A**; and I will carry out the prescribe inspection in respect of the above Building Authority's Notice in accordance with the Buildings Ordinance and Regulations.

RI / /
Certificate of Registration Number

Date of expiry of registration _____ day month year 20

Signature of registered inspector

_____ day month year 20

* delete as appropriate



**BUILDINGS ORDINANCE (CAP. 123)
BUILDING (INSPECTION AND REPAIR) REGULATION
Section 12(2)**

**CERTIFICATE OF COMPLETION OF PRESCRIBED INSPECTION OF
BUILDING**

[Please complete in BLOCK LETTERS and tick in the appropriate box(es)]

To the Building Authority

Building Authority's Notice No: _____

(as shown at the top of the Notice)

Address of *building / *premises
(as shown in Building Authority's Notice) _____

I, _____

Name in English (In accordance with the registration record)

中文姓名 Name in Chinese (In accordance with the registration record)

appointed under [section 30D(1)(a) section 30D(1)(a) and (b)] of the Buildings Ordinance,

confirm that the prescribed inspection under the above Notice was completed on _____.

day month year

2. In accordance with section 12(2)(b) of the Building (Inspection and Repair) Regulation, I certify that

(a) I have carried out the prescribed inspection under the above Notice in accordance with the Buildings Ordinance;

(b) in my opinion the above building/premises [select either (i) or (ii) below]

(i) is safe and a prescribed repair in respect of the building/premises is not required; or

(ii) has been rendered dangerous or liable to become dangerous, and a prescribed repair in respect of the building/premises is required to be carried out to render the building safe; and

(c) the inspection report mentioned in item 3 below is prepared in accordance with the Buildings Ordinance.

3. I submit and attach herewith an inspection report prepared in accordance with section 12(2)(a) of the Building (Inspection and Repair) Regulation, including the following contents:

(a) a statement of the methods that I have adopted for the prescribed inspection;

(b) a report on the findings of the prescribed inspection, including inspection records and test results;

(c) an assessment on the findings of the prescribed inspection; and

(d) (if applicable) a proposal for the prescribed repair required to render the building/premises safe; and

(e) (if applicable) a report of any building works as mentioned in section 30D(5)(b) of the Buildings Ordinance.

Tel. Number: _____

Fax Number: _____

RI _____
Certificate of Registration Number

Date of expiry
of registration _____
day month year

Signature of registered inspector

_____ 20 ____
day month year

* delete as appropriate

c.c. Person for whom the prescribed inspection is carried out

Registered inspector (prescribed repair) - in due course under s30(1)(b), B(I&R)R if applicable



**BUILDINGS ORDINANCE (CAP. 123)
 BUILDING (INSPECTION AND REPAIR) REGULATION
 Section 13 (2)**

CERTIFICATE OF COMPLETION OF PRESCRIBED REPAIR OF BUILDING

[Please complete in BLOCK LETTERS and tick in the appropriate box(es)]

To the Building Authority

| | | | | | | | | | | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| Building Authority's Notice No: | | | | | | | | | | | | | | | | | | | |
| (as shown at the top of the Notice) | | | | | | | | | | | | | | | | | | | |

Address of *building / *premises
 (as shown in Building Authority's Notice) _____

I, _____,
 Name in English (In accordance with the registration record)

中文姓名 Name in Chinese (In accordance with the registration record)

appointed under [Section 30D(1)(a) and (b) Section 30D(1)(b)] of the Buildings Ordinance,
 confirm that the prescribed repair under the above Notice was completed on _____

| | | | | | | | | | | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|--|-----|-------|------|--|--|--|--|--|--|
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | 20 | | | | | | | | |
| | | | | | | | | | | | day | month | year | | | | | | |

2. In accordance with section 13(2)(b) of the Building (Inspection and Repair) Regulation, I certify that
 (a) the prescribed repair under the above Notice has been carried out in accordance with the Buildings Ordinance;

- (b) the prescribed repair has been carried out in accordance with
- (i) the proposal prepared by the registered inspector who carried out the prescribed inspection under the above Notice; or
 - (ii) the revised proposal(s) prepared and submitted by me to the Building Authority under section 22(2) of the Building (Inspection and Repair) Regulation on [date(s) of submission(s)]

- (c) in my opinion the building/premises has been rendered safe after completion of the prescribed repair; and
 (d) the completion report mentioned in item 3 below is prepared in accordance with the Buildings Ordinance.

3. I submit and attach herewith a completion report prepared in accordance with section 13(2)(a) of the Building (Inspection and Repair) Regulation, including the following contents:

- (a) a report on the prescribed repair, including
- records of repair works carried out,
 - report(s) or certificate(s) of the materials used,
 - statement of the method(s) of testing adopted, and
 - records of the results of the testing conducted; and
- (b) (if applicable) an account of all the revisions made to the proposal for the prescribed repair as mentioned in item 2(b) (ii) above.

4. In accordance with section 13(2) (c) of the Building (Inspection and Repair) Regulation, I certify that I am not a partner, director, or authorized signatory of the registered contractor appointed to carry out the prescribed repair.

Tel. Number: _____ Fax Number: _____

| | | | | | | | | | | | | | | | | | | | |
|------------------------------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| RI | | | | | | | | | | | | | | | | | | | |
| Certificate of Registration Number | | | | | | | | | | | | | | | | | | | |

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--------------------------------|--|--|--|--|--|--|--|--|--|--|-----------------------------------|-------|------|--|-------|------|--|--|--|--|--|--|--|--|--|--|--|--|
| Date of expiry of registration | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | 20 | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | day | month | year | | | | | | | | | | | | | | | |
| | | | | | | | | | | | Signature of registered inspector | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | day | | | | month | year | | | | | | | | | | | | |

* delete as appropriate

c.c. Person for whom the prescribed repair is carried out



**BUILDINGS ORDINANCE (CAP. 123) Section 30E(1)(a)
BUILDING (INSPECTION AND REPAIR) REGULATION
Section 11**

**NOTICE OF APPOINTMENT OF QUALIFIED PERSON
(PRESCRIBED INSPECTION OF WINDOWS)**

[Please complete in BLOCK LETTERS and tick in the appropriate box(es)]

To the Building Authority

| | |
|--|--|
| Building Authority's Notice No. | |
| (as shown at the top of the Notice) | |

Address of *building / *premises
(as shown in Building Authority's Notice) _____

Notes:

To comply with the Buildings Ordinance and Regulations, the following form(s) as listed below must be submitted to the Building Authority before commencement of repair works if necessary (for more details please visit BD's website www.bd.gov.hk) :-

- (i) Form MW01 for Class I or Class II Minor Works; and
- (ii) Form BA4 for building works requiring the Building Authority's prior approval of the related prescribed plans.

Part A Notice of appointment of qualified person

(To be completed by the person for whom the prescribed inspection is to be carried out)

1. Particulars of the person for whom the prescribed inspection is to be carried out

| | |
|--|--|
| | |
|--|--|

Name in English (Surname first)

中文名稱 Name in Chinese (if any)

| | |
|--|--|
| | |
|--|--|

Corporation No.
 Business Registration No.
 HKID No.
 Passport No.

Country of issue of passport (If applicable)

| | |
|--|--|
| | |
|--|--|

Correspondence Address

| | | | |
|-----------|-------|-------|---------------------------|
| Flat/Room | Floor | Block | Name of Building / Estate |
|-----------|-------|-------|---------------------------|

Number and Name of Street / Road / Village

| | |
|--|--|
| | |
|--|--|

| | | | |
|----------|------------------------------------|----------------------------------|--|
| District | <input type="checkbox"/> Hong Kong | <input type="checkbox"/> Kowloon | <input type="checkbox"/> New Territories |
|----------|------------------------------------|----------------------------------|--|

Telephone Number : _____ Fax Number : _____

Optional for effective communication

| | |
|--|--|
| | |
|--|--|

E-mail Address

2. Particulars of the appointed qualified person

In accordance with the provisions of section 30E(1)(a) of the Buildings Ordinance, I/we have appointed the qualified person as below to carry out the prescribed inspection in respect of the above Building Authority's Notice.

| | |
|--|--|
| | |
|--|--|

Name in English (In accordance with the registration record)

中文姓名
Name in Chinese (In accordance with the registration record)

*AP()/*RSE/*RI/
*RGBC/*RMWC
Certificate of Registration Number

Telephone Number : _____ Fax Number : _____

Signature of the person for whom the prescribed inspection is to be carried out
and affixed with company seal (if applicable) _____ day month year **20**

Part B Confirmation of appointment by the qualified person

(To be completed by the qualified person appointed)

I/We, _____
Name in English (In accordance with the registration record)

中文姓名 Name in Chinese (In accordance with the registration record)

confirm that in accordance with the provisions of section 11 of the Building (Inspection and Repair) Regulation,
I/we have been appointed as the qualified person detailed in **Part A**; and
I/we will carry out the prescribed inspection in respect of the above Building Authority's Notice in accordance with
the Buildings Ordinance and Regulations.

*AP()/*RSE/
*RI/*RGBC/*RMWC
Certificate of Registration Number

Date of expiry of registration _____ day month year **20**

Signature of qualified person

_____ day month year **20**

* delete as appropriate

