

LEGISLATIVE COUNCIL BRIEF

Buildings Ordinance
(Cap. 123)

SUBSIDIARY LEGISLATION FOR IMPLEMENTATION OF MANDATORY BUILDING INSPECTION SCHEME AND MANDATORY WINDOW INSPECTION SCHEME

INTRODUCTION

Following the enactment in June 2011 of the Buildings (Amendment) Ordinance 2011 (16 of 2011) (“Amendment Ordinance”) which introduces the Mandatory Building Inspection Scheme (“MBIS”) and the Mandatory Window Inspection Scheme (“MWIS”) into the Buildings Ordinance (Cap. 123) (“BO”), it is necessary to make subsidiary legislation to stipulate the modus operandi of the two schemes for implementing them. The Secretary for Development (“SDEV”) has, under section 38 of the BO (as amended by the Amendment Ordinance)¹ and section 2 of the Amendment Ordinance, made four pieces of subsidiary legislation, as follows -

- (a) Building (Inspection and Repair) Regulation (“B(I&R)R”), at **Annex A**;
- (b) Building (Administration) (Amendment) Regulation 2011 (“B(A)(A)R”), at **Annex B**;
- (c) Building (Minor Works) (Amendment) Regulation 2011 (“B(MW)(A)R”), at **Annex C**; and
- (d) Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2011 (“Commencement Notice”) at **Annex D**.

¹ Pursuant to section 32 of the Interpretation and General Clauses Ordinance (Cap. 1), the Administration could make subsidiary legislation according to the regulation-making power enacted in an amendment ordinance which is not yet commenced. The regulations made under this scenario would not be effective until the relevant provision in the ordinance concerned comes into operation.

JUSTIFICATIONS

Existing Building Control System

2. Under the existing BO, it is only when a building becomes dangerous or is liable to become dangerous, or there is defect or dilapidation in a building, that the Building Authority (“BA”) may order the owner of the building to carry out repair and rectification works. The BO does not empower the BA to require the building owner to carry out periodic inspections and conduct necessary preventive repair works for the regular maintenance of his building.

Amendment Ordinance

3. To address the long-term building neglect problem in Hong Kong, we introduced the Buildings (Amendment) Bill 2010 (“the Bill”) into the Legislative Council (“LegCo”) in February 2010 to require building owners to carry out regular inspections and repair works in respect of their buildings and the windows of their buildings under the MBIS and MWIS respectively. After detailed examination by the Bills Committee concerned, the Legislative Council passed the Amendment Ordinance in June 2011.

4. The Amendment Ordinance amends the BO to outline the framework and principles of the MBIS and MWIS. We need to stipulate the detailed procedural and technical requirements of the two mandatory schemes through a new piece of subsidiary legislation, namely the B(I&R)R.

MBIS

5. The MBIS will cover private buildings aged 30 years or above, except domestic buildings not exceeding three storeys in height. Under the Amendment Ordinance, the BA may, by notice, require a prescribed inspection and prescribed repair (if necessary) in respect of the common parts, external walls, certain projections and signboards of a building to be carried out within a specified time. After compliance with the first notice served by the BA, the building owner will be required to carry out an inspection once every 10 years. Paragraphs 6 to 16 below set out the key features of the MBIS covered by the B(I&R)R, B(A)(A)R and B(MW)(A)R -

- Procedural Requirements;
- Registration as Registered Inspectors (“RIs”);
- Scope and Standard of Prescribed Inspections;
- Detailed Investigation;
- Prescribed Repairs in respect of Buildings; and
- Voluntary Compliance.

Procedural Requirements

6. Under the new section 30D(1)(a) of the BO (i.e. section 20 of the Amendment Ordinance), person(s) served with a notice under the MBIS (in most of the cases, the owners or owners' corporation ("OC") of the building concerned)("the person(s)") must appoint an RI to carry out a prescribed inspection. The RI must carry out the prescribed inspection personally, unless exempted by the relevant provisions of the B(I&R)R (under certain special circumstances as explained in paragraph 12 below). Where the RI considers that a prescribed repair is required, the person(s) must appoint a registered general building contractor ("RGBC") or a registered minor works contractor ("RMWC") to carry out a prescribed repair under the supervision of the RI (who may be different from the RI who carried out the prescribed inspection). The RI may appoint a technical representative to supervise the prescribed repair on his behalf while the RI is still ultimately responsible for the supervision of repair works.

7. Upon completion of the prescribed inspection and prescribed repair, the RI so appointed must submit an inspection report and a completion report respectively, together with a certificate in the specified form, to the BA for record and audit check.

Registration as RIs

8. The BA is to keep an inspectors' register under the new section 3(3B) of the BO (i.e. section 6(2) of the Amendment Ordinance). To provide more choices for building owners and enhance market competition, the pool of service providers for building inspections will not only cover authorized persons ("APs") and registered structural engineers ("RSEs"), but also registered architects, registered professional engineers and registered professional surveyors. All these professionals must possess relevant work experience in the field of building construction, repair and maintenance so as to be eligible for inclusion in the inspectors' register. The qualifications and requirements for inclusion in the inspectors' register will be provided in the Building (Administration) Regulation (Cap. 123 Sub. Leg. A). The qualification and requirements have been worked out in consultation with the professional institutes concerned.

9. The registration procedures for RIs will be similar to the existing registration procedures for APs and RSEs under the BO.

Scope and Standard of Prescribed Inspections

10. The scope of prescribed inspections and prescribed repairs in respect of buildings is provided in the Schedules to the B(I&R)R. A prescribed inspection seeks to ascertain whether the building concerned has been rendered dangerous or is liable to become dangerous, by making reference to the standards as listed below, whichever is the latest applicable to the concerned part of the building.

Similarly, a prescribed repair in respect of a building seeks to render the building up to a state not inferior to such standards -

- (a) the standard of works as shown in any plan approved by the BA in respect of the building, according to which the building was completed;
- (b) the standard of works as shown in any plan in respect of the building submitted to the BA under the Building (Minor Works) Regulation (Cap. 123 Sub. Leg. N) (“B(MW)R”);
- (c) the standard of improvement works completed in respect of the building in accordance with the Fire Safety (Commercial Premises) Ordinance (Cap. 502) or the Fire Safety (Buildings) Ordinance (Cap. 572); or
- (d) the standard of building design and construction prevalent at the time of construction of the building.

Detailed Investigation

11. In the course of a prescribed inspection, where there are serious defects constituting structural instability or serious health hazard, or where the extent or cause of the defects cannot be ascertained, a detailed examination or assessment may be conducted to ascertain the seriousness, or the extent or cause, of a defect. Where an RI considers that such a detailed investigation (“DI”) is necessary for the purpose of drawing up a proposal of prescribed repair, the RI must seek BA’s endorsement before commencement of the DI. This is to ensure the necessity and appropriateness of the DI to avoid unwarranted financial burden on owners.

12. If the BA endorses the DI proposal, the RI must arrange to conduct the DI in accordance with the DI proposal endorsed by the BA. The findings of the DI and repair proposal (if any) must be included in the inspection report to be submitted to the BA upon completion of the prescribed inspection. In conducting the DI, the RI may engage specialist(s), and is exempted from the statutory duty to carry out inspection personally as referred to in paragraph 6. In case the BA refuses to endorse the DI proposal, the RI may still arrange to carry out the DI if the owner has been informed of the BA’s decision and still decides to carry out the DI. It should be noted that the RI has to supervise the work of the specialist(s) and is ultimately responsible for the assessment of the findings of the DI when formulating repair proposals.

Prescribed Repairs in respect of Buildings

13. An RI must be appointed to supervise a prescribed repair, whilst the prescribed repair must also be carried out in accordance with the statutory and procedural requirements under the BO. It is anticipated that most of such repair works are minor works and hence could be carried out in accordance with the simplified requirements under the B(MW)R. Under the existing B(MW)R, an AP must be

appointed in respect of Class I minor works. In order to streamline the requirements for a prescribed repair, section 27 of the B(MW)R is amended to the effect that if a prescribed repair or any of its associated demolition works are Class I minor works, the RI appointed to supervise the prescribed repair could be appointed to take up the role of an AP under that section.

Voluntary Compliance

14. We encourage building owners to carry out prescribed inspections and prescribed repairs to their buildings voluntarily, i.e. not pursuant to a notice served by the BA. Unless otherwise stated in the B(I&R)R, the scope, standard and requirements of prescribed inspections and prescribed repairs in respect of buildings, whether or not carried out pursuant to a notice served by the BA, should be generally the same. In this connection, the Hong Kong Housing Society ("HKHS") will implement the Voluntary Building Assessment Scheme ("VBAS") to give positive recognition to buildings with proper management and maintenance. The HKHS has been working with the Buildings Department ("BD") and related professional bodies in developing the implementation mechanism of the VBAS. Buildings or the relevant part thereof certified by the VBAS will be recognized by the BD for having fulfilled the requirements under the MBIS and MWIS within the respective inspection cycles. The HKHS aims to start receiving applications from building owners to participate in the VBAS in the second quarter of 2012.

MWIS

15. The MWIS will cover private buildings aged 10 years or above, except domestic buildings not exceeding three storeys in height. Under the Amendment Ordinance, the BA may, by notice, require a prescribed inspection and, if necessary, prescribed repair in respect of the windows in a building to be carried out within a specified time. After compliance with the first notice served by the BA, the owners will be required to carry out inspections of the windows once every five years.

16. Paragraphs 17 to 23 highlight the major aspects of the MWIS covered by the B(I&R)R, which include -

- Procedural Requirements;
- Qualification and Representative of Qualified Persons ("QPs");
- Scope and Standard of Prescribed Inspections;
- Prescribed Repairs in respect of Windows; and
- Voluntary Compliance.

Procedural Requirements

17. Under the new section 30E(1) of the BO (i.e. section 20 of the Amendment Ordinance), person(s) served with a notice under the MWIS must appoint a QP to carry out the prescribed inspection. The QP must carry out the prescribed inspection personally. Where the QP considers that a prescribed repair is required, the person(s) must appoint a RMWC (who is registered for the minor works in respect of windows) or a RGBC to carry out the prescribed repair under the supervision of a QP (who could be different from the QP that carried out the prescribed inspection). Under the newly added definition of “qualified person” in section 2(1) (i.e. section 4(6) of the Amendment Ordinance) and the new section 30E(6) of the BO, the QP may also be a RMWC or a RGBC and, in such case, the QP may also act as the contractor to carry out the prescribed repair.

18. Upon completion of the prescribed inspection and prescribed repair, the appointed QP must submit a certificate in the specified form to the BA for record and audit check. In the case where a different QP is appointed for the supervision of a prescribed repair, the QP appointed for the prescribed inspection should, upon completion of the prescribed inspection, submit an inspection report together with a certificate in the specified form to the BA for record and audit check.

Qualification and Representative of QPs

19. Under the new definition of “qualified person” in section 2(1) (section 4(6) of the Amendment Ordinance) of the BO mentioned in paragraph 17 above, APs, RSEs, RIs, RGBCs, and RWMCs (under the class, type and item of minor works in respect of windows) registered under the BO could be QPs for carrying out prescribed inspections and prescribed repairs for windows and there will be no separate register for QPs.

20. A QP must carry out a prescribed inspection of windows personally. Where a QP is not a natural person (e.g. a company), the representative of the QP, being a natural person, must carry out the prescribed inspection personally. Detailed requirements of the representative are provided in the B(I&R)R. For example, if a QP is a registered contractor, the representative of the QP must be the person appointed by the QP to act for him for the purposes of the BO as a contractor, i.e. the authorized signatory.

Scope and Standard of Prescribed Inspections

21. A prescribed inspection and prescribed repair in respect of windows in a building must cover the components of all the windows in the owners’ premises in the building. The prescribed inspection seeks to ascertain whether the windows have been rendered dangerous or are liable to become dangerous.

Prescribed Repairs in respect of Windows

22. Prescribed repairs seek to render the windows safe. A QP must be appointed to supervise a prescribed repair, unless the QP is simultaneously the RGBC or RMWC appointed to carry out the prescribed repair works. Where a prescribed repair is required, it must be carried out in accordance with the existing repair procedures provided under the BO. It is anticipated that most window repair works are minor works and hence could be carried out in accordance with the simplified requirements under the B(MW)R.

Voluntary Compliance

23. Similar to the MBIS, building owners may carry out a prescribed inspection and prescribed repair to their windows voluntarily. Unless otherwise stated in the B(I&R)R, the scope, standard and requirements of prescribed inspections and prescribed repairs in respect of windows in buildings, whether or not carried out pursuant to a notice served by the BA, should be generally the same.

IMPLEMENTATION PLAN OF MBIS AND MWIS

Implementation Timetable

24. The Administration's plan is to commence the registration of RIs so that eligible building professionals could submit applications for RI registration as soon as the scrutiny of the proposed subsidiary legislation is completed. It is proposed that 30 December 2011 should be appointed as the day on which those sections in the Amendment Ordinance and B(A)(A)R concerning registration of RIs and other miscellaneous amendments to the BO come into operation so that eligible building professionals could submit applications for registration as RIs starting from that day. The operation of MBIS and MWIS will then fully commence when an adequate number of RIs is available in the market and the first quarterly batch of 500 and 950 target MBIS and MWIS buildings respectively are confirmed by the Selection Panel ("SP")². The BD is now inviting nomination of members from the professional registration boards³ for the BA to establish an Inspectors Registration Committee ("IRC") for processing applications for RIs. To ensure fair competition, we consider that the market should have a supply of at least about 300 RIs initially when the first prescribed inspection under the two schemes are to commence. We expect that this will take about three months to realize after the establishment of the IRC.

² The SP comprises representatives from the relevant government departments, professional bodies, non-government organizations, and property management associations; and one District Council ("DC") member from each of the 18 DCs. It will consider the nominations of target buildings by the BD and other parties, including Hong Kong Housing Society, Urban Renewal Authority, Home Affairs Department and District Councils

³ The Architects Registration Board, the Engineers Registration Board and the Surveyors Registration Board as prescribed in section 6(6) of the Amendment Ordinance.

25. The BD will convene the inaugural SP meeting to select the first batch of target buildings for the commencement of MBIS and MWIS in the 2nd quarter of 2012. Upon confirmation of the target buildings by the SP, the BD will issue advisory letters to the respective building owners notifying them of the statutory requirement of the prescribed inspection and, if necessary, the prescribed repair. The MBIS/MWIS Notices will be served six months after the advisory letters are issued. It is anticipated that the first batch of statutory notices of MBIS and MWIS will be issued in the last quarter of 2012. In general, the BD will withhold the issuance of MBIS/MWIS Notices to those buildings accredited by VBAS within an inspection cycle when the recognition under the VBAS is still valid.

Support to Owners and Industry

26. The BD will collaborate with the HKHS and Urban Renewal Authority to offer technical advice and financial assistance to facilitate compliance by the building owners with the statutory notices under the two schemes, in particular on tendering procedures for the appointment of RIs and registered contractors, and also the management of these personnel.

THE REGULATIONS

Building (Inspection and Repair) Regulation

27. The main provisions of the B(I&R)R (**Annex A**) are as follows -

- (a) **Part 1** contains preliminary provisions on the commencement and interpretation of the B(I&R)R;
- (b) **Part 2** provides for the matters prescribed for the purposes of the BO;
- (c) **Part 3** specifies the documents to be submitted by the RIs and QPs to the BA at different stages of prescribed inspections and prescribed repairs;
- (d) **Part 4** sets out the duties of RIs and QPs when carrying out prescribed inspections and prescribed repairs;
- (e) **Part 5** contains miscellaneous provisions, including the requirements on the documents, reports or proposals submitted under the B(I&R)R;
- (f) **Schedule 1** sets out the items for prescribed inspections in respect of the common parts (other than the external walls) of buildings; and
- (g) **Schedule 2** sets out the items for prescribed inspections in respect of the external walls of buildings.

Building (Administration) (Amendment) Regulation 2011

28. In the B(A)(A)R (**Annex B**) -

- (a) **section 3** amends regulation 2 of the B(A)R to include new definition of “inspectors’ register”;
- (b) **section 4** amends Part II heading of the B(A)R to include RIs;
- (c) **section 5** amends regulation 3 of the B(A)R to provide for the qualification for inclusion in the inspectors’ register;
- (d) **section 6** amends regulation 4 of the B(A)R to provide for the requirements upon application for inclusion in the inspectors’ register; and
- (e) **section 7** adds a new regulation 5A to the B(A)R to provide for the duty of RI not to deal in building materials or receiving payment from any contractor or supplier in relation to any building works without disclosing the fact to the RI’s clients.

Building (Minor Works) (Amendment) Regulation 2011

29. In the B(MW)(A)R (**Annex C**) -

- (a) **section 3** amends section 27 of the B(MW)R to provide for the matters in relation to the appointment of an RI for a prescribed repair that are Class I minor works;
- (b) **sections 4, 5, 6, 7, 8, 9, 11 and 12** amend sections 30, 31, 32, 37, 42, 48, 52 and 55 of the B(MW)R to provide for the duties of RI in relation to the carrying out of Class I minor works;
- (c) **section 10** amends section 51 of the B(MW)R to provide for the duties of a prescribed registered contractor to notify the RI on ceasing to be appointed in respect of Class I minor works;
- (d) **section 13** amends section 62 of the B(MW)R to provide for the matters in relation to the appointment of an RI for the purposes of section 39C(2) of the BO; and
- (e) **section 14** amends some minor works items in Schedule 1 to the B(MW)R in relation to prescribed repairs.

Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2011

30. In the Commencement Notice (**Annex D**), 30 December 2011 is appointed as the day on which sections 1, 2, 4, 5, 6, 9, 11, 12, 13, 15, 16, 18, 22, 23, 24, 25(2) to (7), 29, 38, 39, 40, 41, 42, 43, 44 and 46 of the Amendment Ordinance come into operation.

LEGISLATIVE TIMETABLE

31. The legislative timetable for the four pieces of subsidiary legislation is as follows –

Publication in the Gazette	28 October 2011
Tabling in LegCo	2 November 2011
Commencement of the B(A)(A)R (as well as provisions under the Amendment Ordinance regarding registration of RIs as effected by the Commencement Notice)	30 December 2011
Commencement of the B(I&R)R and B(MW)(A)R	A date to be appointed by the SDEV by notice published in the Gazette

IMPLICATIONS OF THE PROPOSAL

32. The four pieces of subsidiary legislation are in conformity with the Basic Law, including the provisions concerning human rights. They will not change the binding effect of the BO. They have no productivity or competition implications.

Financial and Civil Service Implications

33. Additional resources have been earmarked for the BD to implement the various new initiatives under the new multi-pronged approach to enhance building safety (including the implementation of MBIS and MWIS). The major areas of work include selecting buildings and notifying building owners for mandatory inspections and repairs under the MBIS and MWIS; handling documents and records of inspections and repairs submitted by the RIs and QPs; conducting audit checks on submissions by RIs, QPs and registered contractors; launching public education and publicity campaign and providing support to owners; as well as dealing with non-compliant cases including carrying out of inspections and repairs on behalf of owners, conducting disciplinary proceedings and instigating prosecutions.

34. Registration fees for RIs will be charged on the basis of recovering the full cost of administering the registration system. The corresponding legislative amendment has been made under section 38 of the Amendment Ordinance by inserting a new item 1A into the table of fees in B(A)R 42. It is estimated that the revenue to be generated will be about \$2.2 million per year in the first three years of implementation.

After the peak of registration in the initial years of implementation, the revenue is envisaged to be about \$0.7 million per year.

Economic Implications

35. The implementation of the MBIS and MWIS will reduce threat to public safety and hence the costs of building neglect, including cost of remedial repairs, personal injury and property damage. There will be economic benefits in terms of improved utility, durability, safety and appearance of the buildings involved, thus upholding their property value. While there will be a corresponding increase in the expenses on inspection and repair due to the requirement for periodic inspections of buildings and windows, this should be a cost worth incurring for the benefit of public safety and a better living environment.

36. In addition, the implementation of the MBIS and MWIS will generate added demand for building works, inspections, repairs, management and maintenance services, thereby creating employment opportunities in the building industry.

Environmental Implications

37. Proper building maintenance will slow down the dilapidation of buildings. Pollution and hygiene problems caused by building defects, such as defective drainage system, would be minimized. While the inspection and repair works may pose some potential impacts on the environment (such as noise and demolition waste), these activities will be subject to relevant environmental regulations and have to meet all applicable requirements and standards. Overall speaking, the MBIS and MWIS will bring about improvement to the built environment.

Sustainability Implications

38. The implementation of the MBIS and MWIS will help address the long-standing problem of building neglect and improve building safety in Hong Kong. In particular, the two mandatory schemes will ensure that owners take preventive measures to maintain building and window safety and promote a building care culture in society. In the long run, the number of prematurely aging buildings would be reduced, the overall life span of private buildings would be prolonged, and the living and working environment of Hong Kong would be improved. This is in line with the sustainability principle of providing a better living environment and pursuing policies which promote and protect the safety of the people of Hong Kong.

PUBLIC CONSULTATION

39. We conducted a two-stage public consultation in 2003 and 2005 and consulted the relevant professional bodies and stakeholders. We briefed the then LegCo Panel on Planning, Lands and Works on the

result of the consultation and the proposed way forward in 2007. Members generally welcomed the proposed introduction of the MBIS and MWIS. We also consulted the LegCo Panel on Development in 2008 and 2009 on the topical issues concerning the MBIS and MWIS such as selection of target buildings and regulation of service providers. The public, LegCo and stakeholders are generally supportive of the principles and direction of the MBIS and MWIS. In parallel with the scrutiny of the Bill (the Amendment Ordinance now), the BD has been liaising closely with the industry in mapping out the modus operandi, qualifications of RIs, and administrative codes of practice and practice notes providing guidelines for the two mandatory schemes. The proposals in the regulations were also discussed at the Building Sub-Committee of the Land and Development Advisory Committee and the Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers Committee.

40. Prior to the enactment of the Amendment Ordinance, the Bills Committee had held 22 meetings to discuss the Bill and in general supported the policy objectives of the two mandatory schemes. At those meetings, the proposed content of the subsidiary legislation was discussed and we agreed that the following requirements would be stipulated therein -

- (a) to prescribe clearly the meaning of “projection” as referred to in the new section 30B(5) of the BO (section 20 of the Amendment Ordinance);
- (b) to impose a duty to an RI and QP to deliver copies of the documents which were submitted to the BA (such as the inspection report and completion report) to the person for whom the prescribed inspection and prescribed repair has been carried out, i.e. the OCs/building owners;
- (c) to prescribe the scope of the building elements covered in a prescribed inspection.

Details of these requirements have been included in the B(I&R)R.

41. The LegCo Panel on Development was consulted on 25 October 2011 on the regulations. Members had no objection against the principles of the proposals in the regulations.

PUBLICITY

42. A press release will be issued on 26 October 2011 and a spokesman will be available to handle press enquiries.

43. Before the implementation of the MBIS and MWIS, the BD will launch publicity and public education programmes to promote the two

schemes to both the general public and the industry. A draft administrative Code of Practice on the MBIS and MWIS, which provides guidelines relating to the technical standards and procedural requirements for the reference of the building professionals and registered contractors, was issued by the BD in August 2011. A final edition of the code will be published upon the coming into effect of the Amendment Ordinance and the subsidiary legislation. Practice notes providing guidelines on the requirements of the two mandatory schemes will be issued for the reference of building professionals and registered contractors. Tailor-made leaflets and guidelines will also be produced to facilitate building owners and management companies to understand the two schemes.

ENQUIRY

44. Enquiry on this brief can be addressed to Mr. Ryan Chiu, Principal Assistant Secretary (Planning & Lands) 3, on 2848 6288.

Development Bureau

October 2011

Building (Inspection and Repair) Regulation

Building (Inspection and Repair) Regulation**Contents**

Section	Page
Part 1	
Preliminary	
1. Commencement	1
2. Interpretation	1
Part 2	
Matters Prescribed for Purposes of Ordinance	
Division 1—Prescribed Inspection	
3. Introductory	2
4. Scope of prescribed inspection	2
5. Standard of prescribed inspection	3
Division 2—Prescribed Repair	
6. Introductory	4
7. Scope of prescribed repair	4
8. Standard of prescribed repair	4
Division 3—Projection	
9. Projection	4
Division 4—Representative of Qualified Person	
10. Representative of qualified person for purpose of section	

Building (Inspection and Repair) Regulation

Section	Page
30E(4) of Ordinance	5
Part 3	
Documents to be Submitted to Building Authority for Prescribed Inspection and Prescribed Repair	
Division 1—Notification of Appointment of Registered Inspector and Qualified Person	
11. Notification of appointment of registered inspector and qualified person	6
Division 2—Documents to be Submitted to Building Authority on Completion of Prescribed Inspection and Prescribed Repair	
12. Documents to be submitted on completion of prescribed inspection in respect of buildings	6
13. Documents to be submitted on completion of prescribed repair in respect of buildings	8
14. Documents to be submitted on completion of prescribed inspection and prescribed repair in respect of windows	9
Part 4	
Duties of Registered Inspector, Qualified Person and Registered Contractor	
Division 1—Duty of Registered Inspector in respect of Detailed Investigation	
15. Application	12
16. Interpretation	12
17. Detailed investigation	12

Section	Page
18. Duty of registered inspector to obtain endorsement of proposal from Building Authority	13
19. Decision of Building Authority	13
20. Duty of registered inspector in arranging for detailed investigation.....	13
21. Engagement of specialist	14
Division 2—Duty of Registered Inspector in respect of Supervision of Prescribed Repair	
22. Proposal and revised proposal for prescribed repair in respect of buildings	14
Division 3—Duty of Qualified Person in respect of Supervision of Prescribed Repair	
23. Proposal and revised proposal for prescribed repair in respect of windows	15
Division 4—Duty of Registered Inspector in respect of Appointment of Representative	
24. Appointment of representative of registered inspector	15
25. Power of Building Authority to reject appointment of representative.....	16
Division 5—Duty in respect of Change of Appointment of Registered Inspector or Qualified Person	
26. Application	17

Section	Page
27. Duty of registered inspector and qualified person on cessation to act.....	17
28. Duty of registered inspector in case of nomination under section 30D(10) of Ordinance.....	17
29. Prescribed repair must not be carried out if registered inspector or qualified person becomes unwilling or unable to act	18
Division 6—General Duties of Registered Inspector, Qualified Person and Registered Contractor	
30. Duty of registered inspector and qualified person to deliver copy of document	18
31. Duty of registered inspector and qualified person to provide to Building Authority any information as may be required	21
32. Duty of registered contractor to keep inspection report on site.....	21
Part 5	
Miscellaneous	
33. Completion of document	22
34. Material and form of report and proposal	22
35. Preparation of and signature on report and proposal	22
36. Duty imposed by this Regulation not to prejudice any other duty imposed by Ordinance or other enactment	23

Section	Page
Schedule 1	List of Items for Prescribed Inspection in respect of Common Parts (Other than External Walls) of Buildings 24
Schedule 2	List of Items for Prescribed Inspection in respect of External Walls of Buildings 25

Building (Inspection and Repair) Regulation

(Made by the Secretary for Development under section 38 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

In this Regulation—

authorized signatory (獲授權簽署人)—

- (a) in relation to a registered general building contractor, means a person appointed by the contractor to act for the contractor for the purposes of the Ordinance as mentioned in section 8B(2)(d) of the Ordinance; or
- (b) in relation to a registered minor works contractor, means an authorized signatory, as defined in section 2(1) of the Building (Minor Works) Regulation (Cap. 123 sub. leg. N), of the contractor.

Part 2

Matters Prescribed for Purposes of Ordinance

Division 1—Prescribed Inspection

3. Introductory

For the purpose of the definition of *prescribed inspection* in section 2(1) of the Ordinance, an examination or assessment of a building that satisfies sections 4 and 5 is prescribed as a prescribed inspection.

4. Scope of prescribed inspection

- (1) An examination or assessment mentioned in section 3 must cover—
 - (a) with regard to the common parts of a building, the components of all applicable items (including the finish to each item) specified in Schedules 1 and 2;
 - (b) with regard to an external wall of a building, the components of all applicable items (including the finish to each item) specified in Schedule 2;
 - (c) with regard to a projection of a building prescribed in section 9, the components of the projection (including the finish to the projection);
 - (d) with regard to a signboard erected on a building, the display surfaces, fixings and supporting structures of the signboard; and
 - (e) with regard to a window in a building, the components of the window.
- (2) The reference to the common parts in subsection (1)(a) does not include any window in the common parts.

- (3) The reference to an external wall in subsection (1)(b) does not include any window on the external wall.
- (4) In this section—
finish (飾面) includes any tiling, rendering, cladding or false ceiling.

5. Standard of prescribed inspection

- (1) An examination or assessment mentioned in section 3 must be carried out by reference to the standards specified in subsection (2) to—
 - (a) ascertain whether a building is safe or liable to become dangerous, or has been rendered dangerous;
 - (b) identify any defect or deficiency of a building; and
 - (c) make proposal for any prescribed repair.
- (2) The standards referred to in subsection (1) are—
 - (a) the standard of works as shown in any plan approved by the Building Authority in respect of the building, according to which the building was completed;
 - (b) the standard of works as shown in any plan in respect of the building submitted to the Building Authority under the Building (Minor Works) Regulation (Cap. 123 sub. leg. N);
 - (c) the standard of improvement works completed in respect of the building in accordance with the Fire Safety (Commercial Premises) Ordinance (Cap. 502) or the Fire Safety (Buildings) Ordinance (Cap. 572); and
 - (d) the standard of building design and construction prevalent at the time of construction of the building.
- (3) If more than one standard specified in subsection (2) is applicable to a building, reference is to be made to the latest of the applicable standards.

Division 2—Prescribed Repair

6. Introductory

For the purpose of the definition of *prescribed repair* in section 2(1) of the Ordinance, a repair or testing of a building that satisfies sections 7 and 8 is prescribed as a prescribed repair.

7. Scope of prescribed repair

A repair or testing mentioned in section 6 must cover, as the case requires, all of the items identified as being defective or having deficiencies under section 5(1)(b).

8. Standard of prescribed repair

- (1) A repair mentioned in section 6 must be carried out to the effect that the building has been rendered safe after the repair.
- (2) A testing mentioned in section 6 must be carried out to—
 - (a) verify any finding made in a prescribed inspection; or
 - (b) prove that the building is safe or has been rendered safe.
- (3) A repair under subsection (1) or a testing under subsection (2) must be carried out by reference to the standards specified in section 5(2).
- (4) If more than one standard specified in section 5(2) is applicable to a building, reference is to be made to the latest of the applicable standards.

Division 3—Projection

9. Projection

- (1) For the purpose of section 30B(5) of the Ordinance, each of the following is prescribed as a projection—
 - (a) a balcony;
 - (b) a verandah;

- (c) a planter box;
 - (d) a drying rack;
 - (e) a window canopy as described in subsection (2);
 - (f) any supporting structure for a building service installation (excluding any drainage system);
 - (g) any pipe or duct that is associated with the building service installation mentioned in paragraph (f).
- (2) A window canopy referred to in subsection (1)(e) is a structure projecting from an external wall of a building that is—
 - (a) located above an opening;
 - (b) not carrying any floor load; and
 - (c) either cantilevered or supported by brackets.

Division 4—Representative of Qualified Person

10. Representative of qualified person for purpose of section 30E(4) of Ordinance

For the purpose of section 30E(4) of the Ordinance, if a qualified person is a registered general building contractor or registered minor works contractor, an authorized signatory of the contractor is prescribed as a representative of the qualified person.

Part 3**Documents to be Submitted to Building Authority for
Prescribed Inspection and Prescribed Repair****Division 1—Notification of Appointment of Registered
Inspector and Qualified Person****11. Notification of appointment of registered inspector and
qualified person**

- (1) A registered inspector appointed under section 30D(1)(a) or (b), or a qualified person appointed under section 30E(1)(a) or (b), of the Ordinance must, within 7 days after the date of appointment, notify the Building Authority of the appointment in the specified form.
- (2) The notification must be signed by—
 - (a) the registered inspector or qualified person; and
 - (b) the person for whom the prescribed inspection or prescribed repair is to be carried out.

**Division 2—Documents to be Submitted to Building
Authority on Completion of Prescribed Inspection and
Prescribed Repair****12. Documents to be submitted on completion of prescribed
inspection in respect of buildings**

- (1) This section does not apply to a prescribed inspection in respect of a window in a building.
- (2) A registered inspector appointed under section 30D(1)(a) of the Ordinance must, within 7 days after completion of a prescribed inspection in respect of a building, submit to the Building Authority—

- (a) an inspection report that includes—
 - (i) a statement of the methods that the registered inspector has adopted for the prescribed inspection;
 - (ii) a report on the findings of the prescribed inspection, including any inspection record and test result;
 - (iii) an assessment on the findings of the prescribed inspection;
 - (iv) (if applicable) a proposal for the prescribed repair required to render the building safe; and
 - (v) (if applicable) a report of any building works that the registered inspector is required to notify the Building Authority under section 30D(5)(b) of the Ordinance; and
- (b) a certificate in the specified form in which the registered inspector certifies that—
 - (i) the registered inspector has carried out a prescribed inspection in respect of the building in accordance with the Ordinance;
 - (ii) in the opinion of the registered inspector—
 - (A) the building is safe and no prescribed repair is required; or
 - (B) the building has been rendered dangerous, or is liable to become dangerous, and a prescribed repair is required to be carried out to render the building safe; and
 - (iii) the inspection report mentioned in paragraph (a) is prepared in accordance with the Ordinance.
- (3) If—
 - (a) a prescribed repair in respect of the building is required to be carried out; and

- (b) a different registered inspector is appointed under section 30D(1)(b) of the Ordinance,

the registered inspector appointed under section 30D(1)(a) of the Ordinance must also submit to the Building Authority, within 14 days after completion of the prescribed repair, a certificate in the specified form in which the registered inspector certifies that the registered inspector is not a partner, director, or authorized signatory of the registered contractor appointed to carry out the prescribed repair.

13. Documents to be submitted on completion of prescribed repair in respect of buildings

- (1) This section does not apply to a prescribed repair in respect of a window in a building.
- (2) A registered inspector appointed under section 30D(1)(b) of the Ordinance must, within 14 days after completion of a prescribed repair in respect of a building, submit to the Building Authority—
 - (a) a completion report that includes—
 - (i) a report on the prescribed repair, including any record of repair works carried out, report or certificate of the materials used, statement of the methods of testing adopted for the prescribed repair and record of the result of the testing conducted; and
 - (ii) (if revisions have been made to the proposal for the prescribed repair mentioned in section 12(2)(a)(iv)) an account of all the revisions made; and
 - (b) a certificate in the specified form in which the registered inspector certifies that—
 - (i) the prescribed repair has been carried out in accordance with the Ordinance;
 - (ii) the prescribed repair has been carried out in accordance with the proposal mentioned in section

12(2)(a)(iv), or the revised proposal mentioned in section 22(2);

- (iii) in the opinion of the registered inspector, the building has been rendered safe after completion of the prescribed repair; and
- (iv) the completion report mentioned in paragraph (a) is prepared in accordance with the Ordinance; and
- (c) a certificate in the specified form in which the registered inspector certifies that the registered inspector is not a partner, director, or authorized signatory of the registered contractor appointed to carry out the prescribed repair.

14. Documents to be submitted on completion of prescribed inspection and prescribed repair in respect of windows

- (1) A qualified person appointed under section 30E(1)(a) of the Ordinance must, if no prescribed repair is required, within 14 days after completion of a prescribed inspection, submit to the Building Authority a certificate in the specified form in which the qualified person certifies that—
 - (a) the qualified person, or a representative of the qualified person, has carried out a prescribed inspection in respect of a window in accordance with the Ordinance; and
 - (b) in the opinion of the qualified person, the window is safe and no prescribed repair is required.
- (2) A qualified person appointed under section 30E(1)(a) and (b) of the Ordinance must, within 14 days after completion of a prescribed repair, submit to the Building Authority a certificate in the specified form in which the qualified person certifies that—
 - (a) the qualified person, or a representative of the qualified person, has carried out a prescribed inspection in respect of a window in accordance with the Ordinance;

- (b) in the opinion of the qualified person, the window has been rendered dangerous, or is liable to become dangerous, and a prescribed repair is required to be carried out to render the window safe;
 - (c) the prescribed repair has been carried out in accordance with the Ordinance; and
 - (d) in the opinion of the qualified person, the window has been rendered safe after completion of the prescribed repair.
- (3) Subsections (4) and (5) apply if different qualified persons are appointed under section 30E(1)(a) and (b) of the Ordinance to carry out a prescribed inspection and supervise a prescribed repair in respect of a window in a building.
- (4) A qualified person appointed under section 30E(1)(a) of the Ordinance must, within 7 days after completion of a prescribed inspection, submit to the Building Authority—
 - (a) an inspection report that includes—
 - (i) a report on the findings of the prescribed inspection, including any inspection record and test result;
 - (ii) an assessment on the findings of the prescribed inspection; and
 - (iii) (if applicable) a proposal for the prescribed repair required to render the window safe; and
 - (b) a certificate in the specified form in which the qualified person certifies that—
 - (i) the qualified person, or a representative of the qualified person, has carried out the prescribed inspection in accordance with the Ordinance; and
 - (ii) in the opinion of the qualified person, the window has been rendered dangerous, or is liable to become dangerous, and a prescribed repair is required to be carried out to render the window safe.

- (5) A qualified person appointed under section 30E(1)(b) of the Ordinance must, within 14 days after completion of a prescribed repair, submit to the Building Authority a certificate in the specified form in which the qualified person certifies that—
 - (a) the prescribed repair has been carried out in accordance with the Ordinance;
 - (b) the prescribed repair has been carried out in accordance with the proposal mentioned in subsection (4)(a)(iii), or the revised proposal mentioned in section 23(2); and
 - (c) in the opinion of the qualified person, the window has been rendered safe after completion of the prescribed repair.
-

Part 4

Duties of Registered Inspector, Qualified Person and Registered Contractor

Division 1—Duty of Registered Inspector in respect of Detailed Investigation

15. Application

This Division does not apply to a prescribed inspection in respect of a window in a building.

16. Interpretation

In this Division—

detailed investigation (詳細調査) means any detailed examination or assessment mentioned in section 17.

17. Detailed investigation

If, during the course of a prescribed inspection in respect of a building—

- (a) a registered inspector appointed under section 30D(1)(a) of the Ordinance identifies any serious defect in the building constituting structural instability or serious health hazard; or
- (b) the extent or cause of a defect in the building cannot be ascertained,

then, for the purpose of making a proposal for a prescribed repair, a detailed examination or assessment of any item specified in Schedule 1 or 2, or any projection or signboard, may be conducted to ascertain the seriousness, or extent or cause, of the defect.

18. Duty of registered inspector to obtain endorsement of proposal from Building Authority

- (1) If a registered inspector appointed under section 30D(1)(a) of the Ordinance considers that a detailed investigation is necessary for making a proposal for a prescribed repair, the registered inspector must—
 - (a) notify the Building Authority in writing of the intention to conduct a detailed investigation; and
 - (b) submit to the Building Authority a proposal of the detailed investigation for endorsement.
- (2) The proposal mentioned in subsection (1)(b) must include—
 - (a) the purpose of conducting a detailed investigation;
 - (b) the proposed scope, method and particulars of the detailed investigation;
 - (c) the justification for the proposed method; and
 - (d) a summary of all building defects subject to the detailed investigation, accompanied by any annotated photo and marked-up plan.

19. Decision of Building Authority

- (1) The Building Authority may endorse (whether in whole or in part), or refuse to endorse, a proposal submitted under section 18(1)(b).
- (2) The Building Authority must, within 28 days after receiving a notification and proposal mentioned in section 18(1), notify the registered inspector of the Building Authority's decision under subsection (1) and, if the Building Authority refuses to endorse the proposal, state the reason for the refusal.

20. Duty of registered inspector in arranging for detailed investigation

- (1) Subject to subsection (2), a registered inspector—

- (a) must not commence any detailed investigation before receiving the Building Authority's endorsement of the proposal; and
 - (b) must arrange for the detailed investigation in accordance with the proposal, or any part of the proposal, as endorsed by the Building Authority.
- (2) Despite subsection (1), a registered inspector may still arrange for a detailed investigation the proposal of which is not endorsed (whether in whole or in part) by the Building Authority under section 19(1), so long as—
- (a) the person for whom the prescribed inspection is carried out has been duly informed of the Building Authority's refusal; and
 - (b) the person decides nevertheless to proceed with the detailed investigation.

21. Engagement of specialist

- (1) A registered inspector may, as the case requires, engage and supervise a specialist to carry out a detailed investigation.
- (2) Subsection (1) is an exemption for the purpose of section 30D(3)(a) of the Ordinance.

Division 2—Duty of Registered Inspector in respect of Supervision of Prescribed Repair**22. Proposal and revised proposal for prescribed repair in respect of buildings**

- (1) Subject to subsection (2), a registered inspector appointed under section 30D(1)(b) of the Ordinance must ensure that a prescribed repair is carried out, in accordance with a proposal mentioned in section 12(2)(a)(iv), in respect of the building for which the registered inspector is appointed to supervise the prescribed repair.

- (2) If, during the course of the prescribed repair, certain matter is revealed or circumstance arises in response to which the registered inspector considers it necessary to revise the proposal, the registered inspector must submit a revised proposal to the Building Authority within 7 days after the matter is revealed or circumstance arises.

Division 3—Duty of Qualified Person in respect of Supervision of Prescribed Repair**23. Proposal and revised proposal for prescribed repair in respect of windows**

- (1) Subject to subsection (2), a qualified person appointed under section 30E(1)(b) (but not appointed under section 30E(1)(a)) of the Ordinance must ensure that a prescribed repair is carried out, in accordance with a proposal mentioned in section 14(4)(a)(iii), in respect of the window for which the qualified person is appointed to supervise the prescribed repair.
- (2) If, during the course of the prescribed repair, certain matter is revealed or circumstance arises in response to which the qualified person considers it necessary to revise the proposal, the qualified person must submit a revised proposal to the Building Authority within 7 days after the matter is revealed or circumstance arises.

Division 4—Duty of Registered Inspector in respect of Appointment of Representative**24. Appointment of representative of registered inspector**

- (1) A registered inspector appointed under section 30D(1)(b) of the Ordinance may appoint a representative to perform any duty in supervising a prescribed repair on behalf of the registered inspector.

- (2) A registered inspector appointing a representative under subsection (1) must, not less than 7 days before making the appointment, notify the Building Authority in writing of the intended appointment.
- (3) If there is any change in the appointment (other than an appointment of a representative) made under subsection (1), the registered inspector must, within 7 days after the date of the change, notify the Building Authority in writing of that fact.
- (4) The particulars, qualifications and experience of a representative must be provided in the notification mentioned in subsection (2).
- (5) Despite the appointment of a representative under subsection (1), the registered inspector is held personally responsible for the supervision of the prescribed repair.

25. Power of Building Authority to reject appointment of representative

- (1) The Building Authority may reject an appointment of a representative under section 24(1) if the Building Authority considers that the qualifications or experience of the intended representative is not sufficient or suitable for the purpose of performing the duty required of the representative under the Ordinance.
- (2) In a case of rejection under subsection (1), the Building Authority must—
 - (a) notify the registered inspector in writing of the rejection and the reason for the rejection; and
 - (b) specify the date of the rejection in the notice.
- (3) An appointment rejected under subsection (1) ceases to have effect from the date specified under subsection (2)(b).

Division 5—Duty in respect of Change of Appointment of Registered Inspector or Qualified Person

26. Application

This Division applies if a notification of appointment of a registered inspector or qualified person has been made under section 11(1).

27. Duty of registered inspector and qualified person on cessation to act

If a registered inspector appointed under section 30D(1)(a) or (b), or a qualified person appointed under section 30E(1)(a) or (b), of the Ordinance becomes unwilling or unable to act, the registered inspector or qualified person must, within 7 days after the date on which the registered inspector or qualified person has ceased to act, notify the Building Authority in writing of that fact.

28. Duty of registered inspector in case of nomination under section 30D(10) of Ordinance

- (1) If a registered inspector (*nominator*) appointed under section 30D(1)(b) of the Ordinance has nominated another registered inspector (*nominee*) under section 30D(10) of the Ordinance to temporarily act in the place of the nominator, the nominator must, within 7 days after the date of the nomination, submit to the Building Authority a notification in the specified form, stating—
 - (a) that the nominator has nominated the nominee to temporarily act in the place of the nominator under section 30D(10) of the Ordinance; and
 - (b) that both the nominator and nominee have confirmed the nomination.
- (2) If a nominee ceases to be nominated, the nominator must, within 7 days after the date of cessation, notify the Building Authority in writing of that fact.

29. Prescribed repair must not be carried out if registered inspector or qualified person becomes unwilling or unable to act

- (1) If a registered inspector appointed under section 30D(1)(b) of the Ordinance becomes unwilling or unable to act and no person is nominated under section 30D(10) of the Ordinance to act in the place of the registered inspector, the prescribed repair for which the registered inspector is appointed to supervise must cease until—
 - (a) another registered inspector is appointed under section 30D(1)(b) of the Ordinance to replace the original registered inspector to supervise the prescribed repair; and
 - (b) notification of the new appointment is made under section 11(1).
- (2) If a qualified person appointed under section 30E(1)(b) of the Ordinance becomes unwilling or unable to act, the prescribed repair for which the qualified person is appointed to supervise must cease until—
 - (a) another qualified person is appointed under section 30E(1)(b) of the Ordinance to replace the original qualified person to supervise the prescribed repair; and
 - (b) notification of the new appointment is made under section 11(1).

Division 6—General Duties of Registered Inspector, Qualified Person and Registered Contractor

30. Duty of registered inspector and qualified person to deliver copy of document

- (1) A registered inspector appointed under section 30D(1)(a) of the Ordinance to carry out a prescribed inspection must deliver a copy of each document submitted to the Building Authority under section 12(2) to—

- (a) the person for whom the prescribed inspection is carried out, within 7 days after completion of the prescribed inspection; and
 - (b) (if a prescribed repair is required and a different registered inspector is appointed under section 30D(1)(b) of the Ordinance) the registered inspector appointed under that section, within 2 months after the date of submission under section 12(2), or before the commencement of the prescribed repair, whichever is the earlier.
- (2) A registered inspector appointed under section 30D(1)(b) of the Ordinance to supervise a prescribed repair must deliver to—
 - (a) the registered contractor appointed to carry out the prescribed repair—
 - (i) a copy of each document submitted to the Building Authority under section 12(2), before the commencement of the prescribed repair; and
 - (ii) (if a revised proposal is submitted to the Building Authority under section 22(2)) a copy of the revised proposal, on the same day on which the revised proposal is submitted to the Building Authority; and
 - (b) the person for whom the prescribed repair is carried out, a copy of each document submitted to the Building Authority under sections 13(2) and (if applicable) 22(2), on the same day on which the documents are submitted to the Building Authority.
- (3) A qualified person appointed under section 30E(1)(a) of the Ordinance to carry out a prescribed inspection must deliver—
 - (a) (if no prescribed repair is required) a copy of the document submitted to the Building Authority under section 14(1) to the person for whom the prescribed

- inspection is carried out, on the same day on which the document is submitted to the Building Authority; or
- (b) (if a prescribed repair is required and a different qualified person is appointed under section 30E(1)(b) of the Ordinance) a copy of each document submitted to the Building Authority under section 14(4) to—
 - (i) the qualified person appointed under section 30E(1)(b) of the Ordinance, within 1 month after the date of submission under section 14(4), or before the commencement of the prescribed repair, whichever is the earlier; and
 - (ii) the person for whom the prescribed inspection is carried out, on the same day on which the documents are submitted to the Building Authority.
 - (4) A qualified person appointed under section 30E(1)(b) (but not appointed under section 30E(1)(a)) of the Ordinance to supervise a prescribed repair must deliver to—
 - (a) (if the qualified person does not also act as a registered contractor to carry out the prescribed repair) the registered contractor appointed to carry out the prescribed repair—
 - (i) a copy of each document submitted to the Building Authority under section 14(4)(a), before the commencement of the prescribed repair; and
 - (ii) (if a revised proposal is submitted to the Building Authority under section 23(2)) a copy of the revised proposal, on the same day on which the revised proposal is submitted to the Building Authority; and
 - (b) the person for whom the prescribed repair is carried out, a copy of each document submitted to the Building Authority under sections 14(5) and (if applicable) 23(2), on the same day on which the documents are submitted to the Building Authority.

- (5) If the same qualified person is appointed under section 30E(1)(a) and (b) of the Ordinance, the qualified person must deliver to the person for whom the prescribed repair is carried out a copy of the document submitted to the Building Authority under section 14(2), on the same day on which the document is submitted to the Building Authority.

31. Duty of registered inspector and qualified person to provide to Building Authority any information as may be required

If a registered inspector or qualified person has prepared any document in respect of a prescribed inspection or prescribed repair that is submitted to the Building Authority under section 12(2) or (3), 13(2), 14(1), (2), (4) or (5), 18(1)(b), 22(2) or 23(2), the registered inspector or qualified person must provide to the Building Authority any additional information that the Building Authority may require with regard to the prescribed inspection or prescribed repair.

32. Duty of registered contractor to keep inspection report on site

A registered contractor appointed to carry out a prescribed repair must—

- (a) keep, on the site on which the prescribed repair is carried out, a copy of the documents submitted to the Building Authority under sections 12(2)(a) or 14(4)(a), and 22(2) or 23(2) (as the case requires); and
- (b) produce the copy to the Building Authority at the time that the Building Authority may require.

Part 5

Miscellaneous

33. Completion of document

Any document required to be submitted under this Regulation must be—

- (a) clearly and correctly completed to supply the information required; and
- (b) duly signed.

34. Material and form of report and proposal

Any report or proposal required to be submitted under this Regulation must be prepared and presented in a clear and intelligible manner on a suitable and durable material.

35. Preparation of and signature on report and proposal

- (1) Any report or proposal required to be submitted under this Regulation in relation to a prescribed inspection must be—
 - (a) prepared by, or under the supervision or direction of, as the case requires, a registered inspector appointed under section 30D(1)(a), or a qualified person appointed under section 30E(1)(a), of the Ordinance for the prescribed inspection; and
 - (b) signed by the registered inspector or qualified person.
- (2) Any report or revised proposal required to be submitted under this Regulation in relation to a prescribed repair must be—
 - (a) prepared by, or under the supervision or direction of, as the case requires, a registered inspector appointed under section 30D(1)(b), or a qualified person appointed under section 30E(1)(b), of the Ordinance for the prescribed repair; and

- (b) signed by the registered inspector or qualified person.

- (3) A registered inspector or qualified person signing a report, proposal or revised proposal under subsection (1) or (2) is regarded as having agreed to assume all responsibilities under the Ordinance regarding the report or proposal.

36. Duty imposed by this Regulation not to prejudice any other duty imposed by Ordinance or other enactment

A duty imposed on a person by this Regulation does not affect any duty imposed on the person by any other provision of the Ordinance or any other enactment.

Schedule 1

[ss. 4 & 17]

**List of Items for Prescribed Inspection in respect of
Common Parts (Other than External Walls) of
Buildings**

1. Building structures including transfer structures, cantilevered structures and exposed pile caps.
 2. Fire safety provisions including—
 - (a) means of escape;
 - (b) means of access for fire fighting and rescue; and
 - (c) fire resisting construction.
 3. Common drain pipes of aboveground and underground drainage systems, including any associated fixings.
 4. Fixtures and installations including metal gates, fence walls, protective barriers, parapets, balustrades and skylights.
-

Schedule 2

[ss. 4 & 17]

**List of Items for Prescribed Inspection in respect of
External Walls of Buildings**

1. Building structures including transfer structures and cantilevered structures.
2. Non-structural items including fins, grilles and metal louvers.
3. Curtain walls.
4. Appendages, architectural projections, and fixtures and installations (including metal gates, protective barriers, parapets and balustrades).

Secretary for Development

2011

Explanatory Note

The object of this Regulation is to provide for the detailed procedural and technical requirements relating to prescribed inspections and prescribed repairs in respect of buildings.

2. The Regulation contains 5 Parts and 2 Schedules. The main provisions are as follows—
- (a) Part 1 contains the preliminary provisions on commencement and interpretation;
 - (b) Part 2 provides for the matters prescribed for the purposes of the Buildings Ordinance (Cap. 123) (*the Ordinance*). It includes the scope and standard of a prescribed inspection and a prescribed repair, the meaning of a projection for the purpose of section 30B(5) of the Ordinance and the meaning of a representative of a qualified person for the purpose of section 30E(4) of the Ordinance;
 - (c) Part 3 specifies the documents to be submitted by registered inspectors and qualified persons to the Building Authority at different stages of prescribed inspections and prescribed repairs;
 - (d) Part 4 sets out the specific and general duties of registered inspectors, qualified persons and registered contractors when carrying out prescribed inspections and prescribed repairs;
 - (e) Part 5 contains miscellaneous provisions including certain formality requirements on the documents, reports or proposals submitted under the Regulation;
 - (f) Schedule 1 sets out the list of items for prescribed inspections in respect of the common parts (other than the external walls) of buildings;
 - (g) Schedule 2 sets out the list of items for prescribed inspections in respect of the external walls of buildings.

Building (Administration) (Amendment) Regulation 2011

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

1. Commencement

This Regulation comes into operation on 30 December 2011.

2. Building (Administration) Regulations amended

The Building (Administration) Regulations (Cap. 123 sub. leg. A) are amended as set out in sections 3 to 7.

3. Regulation 2 amended (interpretation)

- (1) Regulation 2, Chinese text, definition of ~~認可人士名冊~~—

Repeal the full stop

Substitute a semicolon.

- (2) Regulation 2—

Add in alphabetical order

“inspectors’ register (檢驗人員名冊) means the register kept under section 3(3B) of the Ordinance;”.

4. Part II heading amended (authorized persons, registered structural engineers, registered geotechnical engineers and registered contractors)

Part II, heading—

Repeal

“AUTHORIZED PERSONS, REGISTERED STRUCTURAL ENGINEERS, REGISTERED GEOTECHNICAL ENGINEERS AND REGISTERED CONTRACTORS”

Substitute

“Authorized Persons, Registered Structural Engineers, Registered Geotechnical Engineers, Registered Inspectors and Registered Contractors”.

5. Regulation 3 amended (qualification for inclusion in register)

- (1) After regulation 3(4A)—

Add

“(4B) A person must not be included in the list of architects in the inspectors’ register unless—

- (a) the person is an authorized person in the list of architects in the authorized persons’ register and complies with paragraph (8);
- (b) the person is a registered architect and complies with paragraph (9); or
- (c) the person is nominated in accordance with section 3(7AA)(b)(i) of the Ordinance.

(4C) A person must not be included in the list of engineers in the inspectors’ register unless—

- (a) the person is an authorized person in the list of engineers in the authorized persons’ register, or a registered structural engineer, and complies with paragraph (8);
- (b) the person is a registered professional engineer in the building or structural engineering discipline and complies with paragraph (9);
- (c) the person is a registered professional engineer in the building services (building), civil or materials (building) engineering discipline and complies with paragraph (10); or
- (d) the person is nominated in accordance with section 3(7AA)(b)(ii) of the Ordinance.

- (4D) A person must not be included in the list of surveyors in the inspectors' register unless—
- (a) the person is an authorized person in the list of surveyors in the authorized persons' register and complies with paragraph (8);
 - (b) the person is a registered professional surveyor in the building surveying division and complies with paragraph (9);
 - (c) the person is a registered professional surveyor in the quantity surveying division and complies with paragraph (10); or
 - (d) the person is nominated in accordance with section 3(7AA)(b)(iii) of the Ordinance.
- (4E) A person falling within—
- (a) subparagraph (a) or (c) of paragraph (4B);
 - (b) subparagraph (a) or (d) of paragraph (4C); or
 - (c) subparagraph (a) or (d) of paragraph (4D),
- may be included, as provided in that paragraph, in the list of architects, the list of engineers or the list of surveyors in the inspectors' register without recommendation by an Inspectors Registration Committee.”.
- (2) Regulation 3(6)—
- Repeal**
- “Every”
- Substitute**
- “Subject to paragraph (7), every”.
- (3) After regulation 3(6)—
- Add**
- “(7) Paragraph (6) does not apply to an applicant for inclusion in the inspectors' register.

- (8) An applicant for inclusion in the inspectors' register under paragraph (4B)(a), (4C)(a) or (4D)(a) must satisfy the Building Authority that, within the 7 years preceding the date of application, the applicant has had appropriate practical experience gained in Hong Kong in any building repair and maintenance project as an authorized person, registered structural engineer, registered architect, registered professional engineer or registered professional surveyor.
 - (9) An applicant for inclusion in the inspectors' register under paragraph (4B)(b), (4C)(b) or (4D)(b) must, for a period or periods in aggregate of not less than 1 year within the 3 years preceding the date of application, have had the practical experience in building construction, repair and maintenance gained in Hong Kong that the Inspectors Registration Committee considers appropriate in the case of the application.
 - (10) An applicant for inclusion in the inspectors' register under paragraph (4C)(c) or (4D)(c) must, for a period or periods in aggregate of not less than 3 years and of which at least 1 year falls within the 3 years preceding the date of application, have had the practical experience in building construction, repair and maintenance gained in Hong Kong that the Inspectors Registration Committee considers appropriate in the case of the application.”.
6. **Regulation 4 amended (requirements upon application for inclusion in register)**
- (1) Regulation 4(1)—
- Repeal everything before the dash**
- Substitute**
- “(1) Every person (other than a person mentioned in regulation 3(4B)(a) or (c), (4C)(a) or (d) or (4D)(a) or (d)) applying for inclusion in the authorized persons'

register, structural engineers' register, geotechnical engineers' register or inspectors' register must".

- (2) Regulation 4(1)(b)—

Repeal

"or geotechnical engineers"

Substitute

", geotechnical engineers' register or inspectors".

- (3) After regulation 4(1)—

Add

"(1A) A person mentioned in regulation 3(4B)(a) or (c), (4C)(a) or (d) or (4D)(a) or (d) applying for inclusion in the inspectors' register must produce to the Building Authority documentary evidence to prove compliance with the requirements of regulation 3."

7. Regulation 5A added

Part II, after regulation 5—

Add

"5A. Registered inspector not to deal in building materials etc. without disclosure to client

A registered inspector must not deal in building materials or receive any payment, commission, advantage or benefit of any kind, whether directly or indirectly, from any contractor, sub-contractor or supplier of building materials or other goods used in or in connection with any building works without disclosing the fact, in writing, to the registered inspector's client."

Secretary for Development

2011

Explanatory Note

The object of this Regulation is to—

- (a) set out the qualifications and requirements for a person to be included in the inspectors' register; and
- (b) restrict a registered inspector from receiving advantage or benefit of any kind from any contractor, sub-contractor or supplier of building materials, unless the registered inspector has disclosed the fact to his or her client.

Building (Minor Works) (Amendment) Regulation 2011**Contents**

Section	Page
1. Commencement	1
2. Building (Minor Works) Regulation amended	1
3. Section 27 amended (prescribed building professionals to be appointed for purposes of section 4A of Ordinance)	1
4. Section 30 amended (documents to be submitted before commencement of class I minor works)	1
5. Section 31 amended (documents to be submitted on completion of class I minor works other than demolition works)	2
6. Section 32 amended (documents to be submitted on completion of class I minor works that are demolition works)	2
7. Section 37 amended (plans etc. to be signed by person preparing them)	3
8. Section 42 amended (duty of prescribed building professional to supervise minor works)	3
9. Section 48 amended (duty of prescribed building professional and prescribed registered contractor on change in appointment)	3
10. Section 51 amended (duty of prescribed registered contractor on ceasing to be appointed)	4

Section	Page
11. Section 52 amended (duty of authorized person on being delivered notice under section 51(1))	4
12. Section 55 amended (duty of authorized person to deliver copy of prescribed plans and details etc. to prescribed registered contractor)	4
13. Section 62 amended (provisions relating to section 39C of Ordinance)	5
14. Schedule 1 amended (minor works)	5

Building (Minor Works) (Amendment) Regulation 2011

(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 (Minor Works) Regulation amended

The Building (Minor Works) Regulation (Cap. 123 sub. leg. N) is amended as set out in sections 3 to 14.

3. Section 27 amended (prescribed building professionals to be appointed for purposes of section 4A of Ordinance)

Section 27(a)—

Repeal

“person;”

Substitute

“person, or, if the works are a prescribed repair or any associated demolition works, a registered inspector assuming the role of an authorized person in respect of the works;”.

4. Section 30 amended (documents to be submitted before commencement of class I minor works)

- (1) Section 30, after “works, the authorized person”—

Add

“or registered inspector”.

- (2) Section 30(a)(iii), after “person”—

Add

“or registered inspector”.

- (3) Section 30(a)(iv), after “person”—

Add

“or registered inspector”.

5. Section 31 amended (documents to be submitted on completion of class I minor works other than demolition works)

- (1) Section 31, after “, the authorized person”—

Add

“or registered inspector”.

- (2) Section 31(c)(ii), after “person”—

Add

“or registered inspector”.

- (3) Section 31(c)(iii)—

Repeal

everything after “authorized person”

Substitute

“or registered inspector has certified that the works are, in his or her opinion, structurally safe;”.

6. Section 32 amended (documents to be submitted on completion of class I minor works that are demolition works)

- (1) Section 32, after “, the authorized person”—

Add

“or registered inspector”.

- (2) Section 32(c)(ii), after “person”—

Add

“or registered inspector”.

- (3) Section 32(c)(iii)—

Repeal

everything after “authorized person”

Substitute

“or registered inspector has certified that any land or street affected by the works has an adequate margin of safety and any structure remaining on the premises is, in his or her opinion, structurally safe;”.

7. Section 37 amended (plans etc. to be signed by person preparing them)

Section 37(1)(c), after “person”—

Add

“or registered inspector”.

8. Section 42 amended (duty of prescribed building professional to supervise minor works)

Section 42(1), after “person”—

Add

“or registered inspector”.

9. Section 48 amended (duty of prescribed building professional and prescribed registered contractor on change in appointment)

(1) Section 48(2)—

Repeal

“authorized person appointed”

Substitute

“authorized person or registered inspector appointed”.

(2) Section 48(2)—

Repeal

“authorized person must”

Substitute

“authorized person or registered inspector appointed under section 27 in respect of the works must”.

(3) Section 48(3), after “authorized person”—

Add

“or registered inspector”.

10. Section 51 amended (duty of prescribed registered contractor on ceasing to be appointed)

Section 51(1)(a), after “person”—

Add

“or registered inspector”.

11. Section 52 amended (duty of authorized person on being delivered notice under section 51(1))

(1) Section 52, heading, after “authorized person”—

Add

“or registered inspector”.

(2) Section 52—

Repeal

everything after “authorized person”

Substitute

“or registered inspector appointed under section 27 or nominated under section 4A(5) of the Ordinance in respect of any class I minor works must, within 7 days after the date of receipt of any notice delivered to the authorized person or registered inspector under section 51(1), submit the notice to the Building Authority.”.

12. Section 55 amended (duty of authorized person to deliver copy of prescribed plans and details etc. to prescribed registered contractor)

(1) Section 55, heading, after “authorized person”—

Add

“or registered inspector”.

- (2) Section 55, after “person”—

Add

“or registered inspector”.

13. Section 62 amended (provisions relating to section 39C of Ordinance)

After section 62(2)(b)—

Add

“(ba) a registered inspector;”.

14. Schedule 1 amended (minor works)

- (1) Schedule 1, Part 1, after section 2—

Add

“3. A description of an item of minor works specified in Part 3 of this Schedule that involves any alteration works must be read as including any strengthening works for that item.

4. A description of an item of minor works specified in Part 3 of this Schedule that involves any erection works must be read as including any replacement of that item.”.

- (2) Schedule 1, Part 3, Division 1, item 1.17—

Repeal

“column, shear wall,”.

- (3) Schedule 1, Part 3, Division 2, item 2.2, paragraph (c)—

Repeal

“of item 3.2”

Substitute

“of item 12 of Part 2 of Schedule 2 or item 3.2”.

- (4) Schedule 1, Part 3, Division 2, item 2.17—

Repeal

“any slab”

Substitute

“any column, shear wall, slab”.

- (5) Schedule 1, Part 3, Division 2, item 2.30, after “Erection”—

Add

“, repair”.

- (6) Schedule 1, Part 3, Division 2, item 2.30, paragraph (a)—

Repeal

“and”.

- (7) Schedule 1, Part 3, Division 2, item 2.30, paragraph (b)—

Repeal

“3.23.”

Substitute

“3.23; and”.

- (8) Schedule 1, Part 3, Division 2, item 2.30, after paragraph (b)—

Add

“(c) the works do not involve any repair or replacement of an internal branch pipe or sanitary fitment.”.

- (9) Schedule 1, Part 3, Division 3, item 3.23, after “Erection”—

Add

“, repair”.

- (10) Schedule 1, Part 3, Division 3, item 3.23, paragraph (b)—

Repeal

“and”.

- (11) Schedule 1, Part 3, Division 3, item 3.23, paragraph (c)—

Repeal the full stop

Substitute

“; and”.

- (12) Schedule 1, Part 3, Division 3, item 3.23, after paragraph (c)—

Add

- “(d) the works do not involve any repair or replacement of an internal branch pipe or sanitary fitment.”.

Secretary for Development

2011

Explanatory Note

The object of this Regulation is to—

- (a) provide for the appointment of a registered inspector for any prescribed repair that is class I minor works; and
- (b) amend any minor works item in Schedule 1 to the Building (Minor Works) Regulation (Cap. 123 sub. leg. N) that may also be a prescribed repair or any of its associated demolition works.

Buildings (Amendment) Ordinance 2011 (Commencement) Notice 2011

1

**Buildings (Amendment) Ordinance 2011
(Commencement) Notice 2011**

Under section 2 of the Buildings (Amendment) Ordinance 2011 (16 of 2011), I appoint 30 December 2011 as the day on which sections 1, 2, 4, 5, 6, 9, 11, 12, 13, 15, 16, 18, 22, 23, 24, 25(2), (3), (4), (5), (6) and (7), 29, 38, 39, 40, 41, 42, 43, 44 and 46 of the Ordinance come into operation.

Secretary for Development

2011