

LEGISLATIVE COUNCIL BRIEF

Buildings Ordinance (Chapter 123)

BUILDINGS (AMENDMENT) BILL 2000

INTRODUCTION

-A---
At the meeting of the Executive Council on 1 February 2000, the Council ADVISED and the Chief Executive ORDERED that the Buildings (Amendment) Bill 2000 (at Annex A) should be introduced into the Legislative Council, to update and enhance the statutory requirements relating to building control and the built environment.

BACKGROUND AND ARGUMENT

General Background

2. Based on the operational experience of the Building Authority (BA), we have identified the need to introduce various legislative amendments to improve and update the Buildings Ordinance (the Ordinance). These include **six** areas -

- (a) provision of floor space for material recovery in new buildings;
- (b) performance review of geotechnical design;
- (c) revised fee structure for the registration of Authorized Persons and Registered Structural Engineers;
- (d) building concessions for hotel development;
- (e) provision of access facilities in new buildings for use by telecommunication and broadcasting network operators; and

- (f) a minor amendment to section 40(2AA) of the Ordinance.

The Proposals

A. Provision of Floor Space for Material Recovery in New Buildings

3. Hong Kong is running out of space for the disposal of its waste. It is important, therefore, to consider ways to reduce this waste. One recommendation of consultants commissioned by the Environmental Protection Department to conduct a Waste Reduction Study was to enhance the recovery of reusable and recyclable materials¹. The current recovery rate for reusable and recyclable materials is rather low, especially in the domestic sector where it is only 8%. One reason for this low rate is that there is insufficient space within the current provision for refuse storage chambers of most buildings for the separation and storage of such materials to permit recovery. This additional storage space is necessary to allow for the accumulation of sufficient volume of recovered materials to make transactions related to material recovery profitable and sustainable. The policy is to encourage the provision of refuse storage chambers, material recovery chambers and associated facilities which, apart from inducing proper management, are desirable to improve the standard and quality of a building.

4. We proposed as one of our 1998 Policy Objectives to make it mandatory for the provision of floor space and facilities for separation of waste and material recovery in all new residential, commercial and industrial buildings. To achieve this we need to amend the regulation-making powers of the Secretary for Planning and Lands (SPL) under section 38(1) of the Ordinance to permit him to make such regulations.

● _____

¹ “Reusable and recyclable materials”: “Reusable materials” refer to any materials which are capable of being used again or repeatedly in its current form i.e. without breaking them down into raw materials. “Recyclable materials” refer to any materials which are capable of being regenerated into raw materials in the manufacture of new products. Common reusable and recyclable materials include paper, paperboard, plastics, glass, wood and metals.

5. We **propose** to amend the Building (Refuse Storage Chambers and Chutes) Regulations [B(RSC&C) Regs]:

- (a) increase the floor space requirements currently provided under the B(RSC&C) Regs for refuse storage chambers in new domestic, non-domestic and composite buildings so as to allow for material recovery; and
- (b) make provision for material recovery chambers in new industrial buildings, which are currently not required to be provided with refuse storage chambers under the B(RSC&C) Regs.

We further **propose** that the space necessary to meet the requirements for RSCs and material recovery chambers will be disregarded from Gross Floor Area calculations for the purpose of the Building (Planning) Regulations. This is already the practice of the BA in the case of refuse storage chambers.

B. Performance Review of Geotechnical Design

6. There is power under the Ordinance for the BA to impose restrictions and geotechnical controls on developments in the Mid-Levels Scheduled Area and other scheduled areas² with geotechnical problems. Since geotechnical problems can arise outside these scheduled areas and since there may be a need to validate geotechnical assumptions for unconventional projects, we consider that an extension of these controls is warranted. However, these controls need not be extended to all developments.

7. The existing controls, under section 17(1), Column B item 6(g) and section 21(6)(f) of the Ordinance, provide for the BA to require performance reviews of works in the scheduled areas to ensure that works have been adequately inspected and monitored in the course of construction and that the

● _____
² These are set out in the Fifth Schedule of the Ordinance and comprise, in brief, defined parts of the Mid-levels, North West New Territories, protection areas along the Mass Transit Railway, Ma On Shan and protection areas along the sewage tunnels.

geotechnical design assumptions for the building works remain valid. For developments in the Mid-Level Scheduled Areas, the BA can refuse to issue Occupation Permits (OPs) until a satisfactory performance review has been completed. We **propose** to extend these controls outside the scheduled areas to three categories of sites :

- (a) **Category 1 sites** are those where geological conditions need to be verified during construction prior to an application for an OP.

- (b) **Category 2 sites** are those where the groundwater regime could be adversely affected by the development.

- (c) **Category 3 sites** are those with unconventional designs, the performance of which has not been fully demonstrated by local case histories, tests and investigations.

8. The requirement for a performance review prior to an application for OP would also be imposed as a condition of approval of plans and consent to the commencement of the relevant building works. Detailed guidelines on the implementation procedures, and the situations under which the requirement of performance review would likely be imposed, will be set out by the BA in a Practice Note to Authorized Persons and Registered Structural Engineers (PNAP).

C. Fees for the Registration of Authorized Persons and Registered Structural Engineers

9. The current system of fees for the registration of Authorized Persons (APs) and Registered Structural Engineers (RSEs) set out in section 3 of the Ordinance contains a deficiency in that fees can only be charged for successful applications for inclusion in the lists within the AP register or in the RSE register. We consider this to be unfair to the successful applicants as the cost of processing the unsuccessful applications are transferred to them. We **propose** to divide the inclusion fee into two parts :

- (a) an **application fee**, which covers the cost of processing an application up to the announcement of its result and is payable by all applicants upon making their applications; and
- (b) an **inclusion fee**, which covers the cost of actually including the name of successful applicants in the appropriate registers and publishing the same in the Gazette.

This fee structure has to be set out in the Ordinance. A similar scheme has already been adopted for the registration of general building contractors and specialist contractors under section 8B(5) of the Ordinance.

10. The fees are imposed on a full cost recovery basis. Following a costing review, there is scope to reduce the fees for APs/RSEs under the Building (Administration) Regulations as set out in the table below :

| <u>Type of Fees</u> | <u>Current Rates</u> | <u>Proposed New Rates</u> |
|--|----------------------|---------------------------|
| Application for inclusion in a list in a register or in a register | \$6,110 | \$4,080 |
| Inclusion in a list in a register or in a register | - | \$420 |
| Retention in a list in a register or in a register (annual retention fee) | \$840 | \$815 |
| Restoration to a list in a register or in a register (for restoration, after removal of name from a list in a register or from a register) | \$2,500 | \$640 |

D. Building Concessions for Hotel Development

11. Since 1969, the BA has exercised discretionary power under the Ordinance to grant building concessions to bona fide hotel developments. Over the years the BA has made changes to the concessions which have been reflected, first in circulars to the industry and then in PNAPs. The existing concessions are set out in PNAP 111 'Hotel Development', which was last revised in August 1996. A copy of this is at Annex B. Hotels are classified as premises for domestic use for most planning purposes. PNAP 111 clarifies that, for bona fide hotel proposals, the BA would favourably consider applications to modify the plot ratio limits in the Building (Planning) Regulations up to non-domestic standards i.e. from 10 to 15, subject to plot ratio limits set on the relevant Outline Zoning Plans. A similar modification would also be permitted for the site coverage restrictions. The PNAP also clarifies that certain supporting facilities for a hotel and suitably designed setting-down area and picking-up area could be eligible for exemption from plot ratio computations.

12. We have conducted a comprehensive review on the overall policy and the procedures for the granting of the hotel concessions. As part of this review we have determined that we need to clarify the authority for granting the concessions and improve the enforcement of the conditions for the grant.

a) Policy review

13. The tourism industry is an important sector in the economy. Tourism receipts contribute to 5% of the Gross Domestic Product. In 1999, the tourism industry employed, directly and indirectly, 330,000 people comprising 9.6% of the workforce. Measures which encourage the steady supply of adequate hotel rooms to meet the demand of overseas visitors are important for ensuring the sustainable development of the tourism industry. Notwithstanding the downturn in visitor arrivals in 1997 and 1998, the industry has seen early signs of recovery in 1999. Total visitor arrivals grew to 10.7 million, representing an increase of 11.5% over that of 1998.

14. To support the long-term growth of the tourism industry, we remain of the view that the current concessions for hotel developments are justified to narrow the differentials in the returns for hotel developments as compared with commercial and office developments. Given the importance of tourism to Hong Kong, we **propose** that the current policy on hotel concessions be confirmed and formalized by amending the Building (Planning) Regulations.

15. We do not consider that further concessions are necessary. Some hotel owners have put forward a proposal that hotel administration offices should be exempt from the plot-ratio provision. We do not agree with this as, taking into account the hotel concessions, hotels enjoy a similar non-domestic plot ratio and site-coverage concessions as are applicable to offices elsewhere, which are also classified as non-domestic. We see no reason for offices in a hotel to be treated differently than offices located elsewhere.

b) Authority for granting concessions

16. In the past the concessions have been granted by the BA using his discretionary power under section 42 of the Ordinance. However, recent legal advice has indicated that specific legislation is required to achieve the policy intention of providing concessions to hotels to meet their special planning needs. Accordingly we **propose** to amend the Building (Planning) Regulations to formalize these concessions previously granted by the BA.

c) Enforcement

17. We **propose** that it should be an offence to change the use of a hotel or a hotel area which enjoys concession without the prior approval of the BA. The existing penalty for any unauthorized material change of use is \$10,000 and 6 months imprisonment. Given the profits that could be made from unauthorized use, we do not consider this a sufficient deterrent and **propose** to increase the penalty to a fine at level 6 (\$100,000) and imprisonment not exceeding for 2 years. To support enforcement by the BA there is an administrative arrangement whereby the Home Affairs Department, which is the licensing authority for hotels, will notify the BA of any misuse of hotel concession areas so that appropriate enforcement action can be taken. To

ensure that appropriate penalties can be increased for unauthorized change of use, two minor amendments are also required to the principal Ordinance :

- (a) to increase the penalty as described above for offences under s40(2)(a) and (b) regarding unauthorized change of use and breaches of exemptions permit under which many modifications of or exemption from the provisions of the Ordinance are granted; and
- (b) to permit the Secretary to make Regulations providing for daily fines for continuing offences under the Regulations.

E. Provision of Access Facilities in New Buildings for use by Telecommunication and Broadcasting Network Operators

18. The 21st Century will be a new Information Age. The Government's policy objective is to develop Hong Kong into a telecommunication, broadcasting and Internet hub. To assist in achieving this we need to ensure that people, whether at home or at work, can access to and have a choice of quality telecommunication and broadcasting networks. Under the Telecommunication Ordinance (Cap. 106) the Fixed Telecommunication Network Services operators and the subscription television broadcasting network operator have the right to place and maintain telecommunication lines in common parts of buildings. To provide quality telecommunication and broadcasting network services, it is necessary to provide for cabling within each building and to have a dedicated Telecommunication and Broadcasting Equipment (TBE) room to accommodate the telecommunications and broadcasting equipment. The BA issued in 1997 a PNAP to encourage the provision of TBE rooms on a voluntary basis but this has not always been followed, to the detriment of occupants of those new buildings. To facilitate the development of Hong Kong's Information Infrastructure and in the interest of consumers, we propose that the provision of access facilities for telecommunications and broadcasting be made a mandatory requirement for certain types of new buildings.

19. We **propose** to amend the Ordinance to permit SPL to make regulations concerning access facilities for telecommunications and broadcasting services. We **propose** to amend the Building (Planning) Regulations to require the provision of access facilities for the installation of telecommunication and broadcasting cables and ancillary equipment in new commercial, industrial, residential (other than buildings for single family residence) and hotel buildings. The standards will be prescribed by the BA after consultation with the Telecommunications Authority and relevant advisory committees. The proposed standards are at Annex C. As an incentive to developers, we propose that the floor space for the TBE rooms, ducts and risers for the cables may be excluded from the Gross Floor Area calculation for the buildings.

F. Minor amendment to Section 40(2AA) of the Ordinance

20. When the Buildings (Amendment) Ordinance 1996 was enacted, a consequential amendment to section 40(2AA) of the BO was omitted. We need to correct that oversight so that the offence provisions in section 40(2AA) relate back, as was intended, to the duties of registered general building contractors and registered specialist contractors as provided in the renumbered section 9 of the Ordinance.

THE BILL

21. Under **clause 1** SPL may provide for commencement, except that the minor amendment to section 40(2AA) under **clause 6** would come into effect on gazettal after enactment.

22. **Clause 2** provides for the amendment to section 3 of the Ordinance, in order to remove the deficiency that fees for registration of APs and RSEs can only be charged for successful applications. The fee changes are effected through amendment to the Building (Administration) Regulations as set out in **paragraph 1 of the Schedule**.

23. By **clause 3**, the BA may impose conditions on geotechnical grounds both for his approval of plans and consent to commence building work and to provide for performance review. By **clause 4** the BA may refuse to issue an Occupation Permit unless the required performance review has been completed to his satisfaction.

24. Under **clause 5** amendments are made to section 38 of the Ordinance so that SPL may provide by regulation for

- (a) access facilities for telecommunication and broadcasting services;
- (b) floor space and facilities for material recovery and separation of refuse; and
- (c) daily fines at level 2 (\$5,000) for continuing offences against any provision of any Regulation made under the Ordinance.

25. Under **clause 6**, the maximum penalty for offences under the existing section 40(2)(a) and (b) are increased to level 6 (\$100,000) and imprisonment for 2 years. The opportunity is also taken to delete a reference in the existing section 40(2)(c) to a committee of review appointed under section 50 of the Ordinance, the provisions for which were repealed in 1994.

26. In the **Schedule** provided for under **clause 7**, of the Bill amendments are made to various Regulations under the Ordinance to give effect to our proposals. Further definitions are added to the Building (Planning) Regulations through **paragraph 2 of the Schedule**. **Paragraph 3** makes it possible for Gross Floor Area exemption to be given by the BA for refuse storage chambers, material recovery chambers, etc. and access facilities for telecommunication and broadcasting services.

27. Under **paragraph 4 of the Schedule**, a new Regulation 23A is made to grant discretionary power to the BA to give hotel concessions in respect of hotel developments and to make it an offence for unauthorized change in the use. In subregulation 23A(5)(b) the reference to the Exclusion Order under the Hotel and Guesthouse Accommodation Ordinance (Chapter 349) is to ensure

that such concessions are not available for service apartments.

28. Under **paragraph 5 of the Schedule** a new part IIIA is added to provide for access facilities for telecommunication and broadcasting services in accordance with requirements which may be specified by the BA.

29. Under **paragraphs 6 to 22 of the Schedule**, amendments are made to the B(RSC&C) Regs to provide for floor space for material recovery in domestic, non-domestic and composite buildings. Definitions are provided for under **paragraph 8. Paragraph 9**, when taken with **paragraph 22**, makes provision for material recovery chambers in all domestic, non-domestic (including industrial) and composite buildings. Ventilation, accessibility and lighting requirements are specified in **paragraph 20**.

D 30. The existing provisions which are being amended are at Annex D.

PUBLIC CONSULTATION

31. We have consulted and secured agreement with the Building Sub-committee of the Land and Building Advisory Committee³ on proposals (a), (b), (d) and (e) mentioned in paragraph 4 above. In addition on proposal (e), relating to building concessions for hotel developments, we have also consulted the Hong Kong Tourist Association and the Federation of Hong Kong Hotel Owners Limited. While there was general support for this policy, some views were expressed that a wider definition of supporting facilities could be given. We consider our current definition adequate. On proposal (c), the restructuring of registration fees for APs and RSEs, we have consulted the Authorized Persons and Registered Structural Engineers Committee⁴ which is in agreement with the proposals. The Legislative Council Panel on Planning, Lands and Works has also been consulted.

● _____
³ The Committee has on it representatives from the Hong Kong Institute of Architects (HKIA), Hong Kong Institution of Engineers (HKIE), Hong Kong Institute of Surveyors (HKIS), Real Estate Developers Association of Hong Kong (REDA) and the Hong Kong Construction Association Limited (HKCA).

⁴ The Committee has on it representatives from HKIA, HKIE and HKIS.

BASIC LAW IMPLICATIONS

32. The Department of Justice advises that the Bill is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

33. The Department of Justice advises that the proposals have no human rights implications.

BINDING EFFECT OF THE LEGISLATION

34. The Bill does not alter the binding effect of the Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

35. The Bill does not entail any significant additional financial or staffing implications. Buildings Department will meet any additional resource requirement arising from the enhanced control of building works under the Ordinance within its existing resources. Full-cost recovery will be achieved under the revised fee structure for the registration of Authorized Persons and Registered Structural Engineers. Formalizing the current policy on hotel concessions will not result in any additional loss in land premiums.

ECONOMIC IMPLICATIONS

36. The extra cost arising from enhanced control of the geotechnical aspects of the building works will be worthwhile in terms of structural safety of the property development concerned. On building concession for hotel developments, it is a formalization of the existing practice and will work in favour of the hotel industry, and the tourism sector in general. The proposed mandatory requirement to provide access facilities for telecommunication and broadcasting services in new buildings will be conducive to the development of Hong Kong as a telecommunication, broadcasting and Internet hub.

ENVIRONMENTAL IMPLICATIONS

37. The proposals to make provisions for material recovery and separation will assist in our efforts to reduce and recover waste for recycling.

LEGISLATIVE TIMETABLE

38. The legislative timetable will be -

| | |
|---|------------------|
| Publication in the Gazette | 3 February 2000 |
| First Reading and commencement of the Second Reading Debate | 16 February 2000 |
| Resumption of Second Reading Debate, committee stage and Third Reading | to be confirmed |

PUBLICITY

39. A press release will be issued on 3 February 2000, the day on which the Bill is published in the Gazette. A spokesman will be available to answer media enquiries.

ENQUIRIES

40. Enquiries concerning this Brief may be addressed to Mr G.F. Woodhead, Principal Assistant Secretary for Planning and Lands (Buildings) at

telephone: 2848 6288
fax: 2899 2916

Planning and Lands Bureau
Government Secretariat
February 2000
File Reference: PLB(B) 30/30/88(98)

Buildings Ordinance (Chapter 123)

BUILDINGS (AMENDMENT) BILL 2000: ANNEXES

Annex A - Buildings (Amendment) Bill 2000

Annex B - Practice Note to Authorized Persons and Registered Structural Engineers
No.111

Annex C - Proposed requirements for access facilities for telecommunication and
broadcasting services

Annex D - Provisions which are being amended by the Buildings (Amendment) Bill 2000

BUILDINGS (AMENDMENT) BILL 2000

CONTENTS

| Clause | | Page |
|----------|--|------|
| 1. | Short title and commencement | 1 |
| 2. | Registers of authorized persons and structural engineers | 1 |
| 3. | Conditions may be imposed in certain cases | 2 |
| 4. | Occupation of new building | 3 |
| 5. | Regulations | 3 |
| 6. | Offences | 4 |
| 7. | Consequential and other amendments | 5 |
| Schedule | Consequential and other amendments | 5 |

A BILL

To

Amend the Buildings Ordinance.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Buildings (Amendment) Ordinance 2000.

(2) Subject to subsection (3), this Ordinance shall come into operation on a day to be appointed by the Secretary for Planning and Lands by notice in the Gazette.

(3) Section 6 shall come into operation at the beginning of the day on which this Ordinance is published in the Gazette.

**2. Registers of authorized persons
and structural engineers**

Section 3 of the Buildings Ordinance (Cap. 123) is amended -

(a) by repealing subsection (6A) (b) and substituting -

“(b) shall pay -

- (i) upon submission of the application, the non-refundable prescribed fee for processing of the application;
- (ii) upon the application being granted, the respective prescribed fees for inclusion and retention of his name in the appropriate register.”;

(b) by repealing subsection (9) (a) and substituting -

“(a) on payment by the applicant of the prescribed fees mentioned in subsection (6A) (b) (ii), publish in the Gazette and enter in the appropriate list or, as the case may be, register the name of that applicant; or”.

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

Section 17(1) is amended -

(a) in Column A, in item 6(b), by adding “, foundation works” after “piling works”;

(b) in Column B, in item 6, by repealing paragraph (g) and substituting -

“(g) a performance review in respect of -

(i) works in the scheduled areas; or

(ii) works in sites outside the scheduled areas where -

(A) the Building Authority considers that the geological conditions need to be verified during construction and before an application for occupation permit is made under section 21;

(B) the groundwater regime will be adversely affected by the works; or

(C) the Building Authority is of the opinion that the works incorporate unconventional designs, the performance of which has not been fully demonstrated by local case histories, tests and investigations.”.

4. Occupation of new building

Section 21(6) (f) is amended by repealing “in the case of a building in area number 1 of the scheduled areas any performance review” and substituting “any performance review as required under item 6(g) in Column B of section 17(1)”.

5. Regulations

Section 38 is amended -

(a) in subsection (1) (c) -

(i) in subparagraph (xii), by repealing “and”;

(ii) in subparagraph (xiii), by adding “and” at the end;

(iii) by adding -

“(xiv) matters relating to the provision of access facilities for telecommunication and broadcasting services;”;

(b) by repealing subsection (1) (d) (xii) and

substituting -

“(xii) refuse chutes, refuse storage chambers, and floor space and facilities for material recovery and separation of refuse;”;

(c) by repealing subsection (4) and substituting -

“(4) Regulations under this section may provide that a contravention of any specific provision thereof shall be an offence and may prescribe penalties therefor of -

- (a) a fine not exceeding level 6;
- (b) in the case of a continuing offence, a daily fine not exceeding \$5,000 for each day during which the offence continues; and
- (c) imprisonment for a period not exceeding 2 years.”.

6. Offences

Section 40 is amended -

- (a) by repealing subsection (2);
- (b) by adding the following before subsection (2A) -

“(2) Any person who -

- (a) fails to give any notice required to be given under section 25(1); or
- (b) contravenes any condition of a permit granted by the Building Authority under section 42,

shall be guilty of an offence and shall, without prejudice to any other penalty, be liable on conviction to a fine at level 6 and to imprisonment for 2 years.

(2AAA) Any person who obstructs the Building Authority, any officer authorized by him or any other public officer, in the exercise of his power under this Ordinance, shall be guilty of an offence and shall, without prejudice to any other penalty, be liable on conviction to a fine at level 3 and to imprisonment for 6 months.”;

- (c) in subsection (2AA), by repealing “9(3) (b)” and substituting “9(5) (b) or (6) (b)”.

7. Consequential and other amendments

The enactments specified in the Schedule are amended as set out in the Schedule.

SCHEDULE

[s. 7]

CONSEQUENTIAL AND OTHER AMENDMENTS

Building (Administration) Regulations

1. Fees

Regulation 42 of the Building (Administration) Regulations (Cap. 123 sub. leg.) is amended, in the Table of Fees, by repealing item 1 and substituting –

| | | | | |
|-----|---------|--|--------------------|---------|
| “1. | (a) (i) | For each application for inclusion of | Person applying | \$4,080 |
|-----|---------|--|--------------------|---------|

name in each list of the authorized persons' register or in the structural engineers' register. for inclusion in register.

(ii) For each inclusion of name in each list of the authorized persons' register or in the structural engineers' register. Successful applicant seeking inclusion in register. \$420

(b) For each application for retention of name in each list of the authorized persons' register or in the structural engineers' register. Authorized person or registered structural engineer seeking retention in register. \$815 for retention for a period of 12 months.

(c) For each application for restoration of name in each list of the authorized persons' register or in the structural engineers' register. Person seeking restoration to register. \$640".

Building (Planning) Regulations

2. Interpretation

Regulation 2 of the Building (Planning) Regulations (Cap. 123 sub. leg.) is amended by adding -

““access facilities” (接達設施) means facilities for access of telecommunication and broadcasting services, including a room, duct or riser used for the installation of cables, wires and other ancillary equipment for telecommunication and broadcasting purposes;

“broadcasting” (廣播) has the meaning assigned to it in section 13A of the Telecommunication Ordinance (Cap. 106);

“commercial building” (商業建築物) has the same meaning assigned to it in section 2 of the Building (Energy Efficiency) Regulation (Cap. 123 sub. leg.);

“hotel building” (旅館建築物) means a building which is constructed or intended to be used as a hotel;

“industrial building”(工業建築物) has the same meaning assigned to it in regulation 2 of the Building (Refuse Storage Chambers and Chutes) Regulations (Cap. 123 sub. leg.);

“residential building” (住宅建築物) has the same meaning assigned to it in regulation 3 of the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations (Cap. 123 sub. leg.);

“telecommunication” (電訊) has the meaning assigned to it in section 2 of the Telecommunication Ordinance (Cap. 106);”.

3. Provisions supplementary to regulations

19, 20, 21 and 22

Regulation 23(3) (b) is amended by adding after “loading or unloading of motor vehicles” -

“, or for refuse storage chambers, refuse storage and material recovery chambers, material recovery chambers, refuse storage and material recovery rooms, refuse chutes, refuse hopper rooms and other types of facilities provided to facilitate the separation of refuse to the satisfaction of the Building Authority, or for access facilities for telecommunication and broadcasting services.”.

4. Regulation added

The following is added -

“23A. Provisions supplementary to regulations 19, 20, 21 and 22 in respect of hotels

(1) In this regulation, “hotel” (旅館) means any premises whose owner, occupier or proprietor holds out that, to the extent of his available accommodation, he will provide sleeping accommodation for any person presenting himself who appears able and willing to pay a reasonable sum for the services and facilities provided and is in a fit state to be received.

(2) For the purposes of regulations 19, 20, 21 and 22, the Building Authority may -

(a) treat as a non-domestic building a building that he is satisfied is constructed or intended to be used as a hotel (“hotel

building”); or

- (b) treat as a non-domestic part of a composite building the part in the building that he is satisfied is constructed or intended to be used as a hotel (“the hotel part of a building”).

(3) In determining the gross floor area of a hotel building or the hotel part of a building for the purposes of regulations 20, 21 and 22, the Building Authority may disregard any floor space in that hotel building or the hotel part of that building that he is satisfied is constructed or intended solely for use as -

- (a) a place for picking up and setting down persons departing from or arriving at the hotel by vehicle; or
- (b) any of the following -
 - (i) a laundry, a carpentry workshop, a mechanical or electrical workshop;
 - (ii) an area for storing dry goods, food, beverages, linen or furniture;
 - (iii) facilities for the welfare of staff including staff canteen, changing room and rest room for staff; or
 - (iv) other similar supporting facilities.

(4) Without prejudice to section 25 of the Ordinance, where a hotel building has been treated as a non-domestic building or the hotel part of a building has been treated as a non-domestic part of that building under paragraph (2), no person, being the proprietor of the hotel or being the owner or occupier of the hotel building or the hotel part of the building, shall without prior approval of the Building Authority change, or cause to be changed, the use of the hotel building or of the hotel part of the building in whole or in part to a use other than that of a hotel.

(5) For the purpose of paragraph (4), if since a hotel building or the hotel part of a building has been put into use -

(a) no licence issued under section 8 or renewed under section 9 of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) is in effect in respect of the hotel concerned; or

(b) an order of exclusion is in effect under section 3 of that Ordinance in respect of the hotel concerned,

then any use of the hotel building or of the hotel part of the building in whole or in part shall be deemed to be a change of use to a use other than that of a hotel.

(6) Without prejudice to section 25 of the Ordinance, where any floor space in a hotel building or the hotel part of a building has been disregarded under paragraph (3) in determining the gross floor area of the hotel building or the hotel part of the building, no person, being the

proprietor of the hotel or being the owner or occupier of the hotel building or the hotel part of the building, shall without prior approval of the Building Authority use, or cause to be used, the floor space in whole or in part for any use other than a use mentioned in sub-paragraph (a) or (b) of that paragraph.

(7) Where -

- (a) the use of a hotel building or of the hotel part of a building in whole or in part is changed in contravention of paragraph (4); or
- (b) any floor space in whole or in part is used in contravention of paragraph (6),

the Building Authority may by order in writing served on the proprietor of the hotel concerned or the owner or occupier of the hotel building or the hotel part of the building require him to discontinue its present use within such time or times as may be specified in the order.

(8) Any person who -

- (a) contravenes paragraph (4) or (6) shall be guilty of an offence and shall be liable on conviction to a fine at level 6 and to imprisonment for 2 years;
- (b) without reasonable excuse, fails to comply with an order served on him under paragraph (7) shall be guilty of an offence and shall be liable on conviction -
 - (i) to a fine at level 5 and to imprisonment for 1 year; and

- (ii) to a further fine at \$5,000 for each day during which it is proved to the satisfaction of the court that the failure to comply with the order has continued.”.

5. **Part added**

The following is added -

“PART IIIA

ACCESS FACILITIES FOR TELECOMMUNICATION AND
BROADCASTING SERVICES

**28A. Access facilities for telecommunication
and broadcasting services**

Every commercial building, industrial building, residential building (other than a building for the residence of a single family) and hotel building shall be provided with access facilities for telecommunication and broadcasting services in accordance with the design requirements as may be specified by the Building Authority from time to time.”.

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

6. **Title amended**

The title to the Building (Refuse Storage Chambers and Chutes) Regulations (Cap. 123 sub. leg.) is amended by repealing “**CHAMBERS AND**” and substituting “**AND MATERIAL RECOVERY CHAMBERS AND REFUSE**”.

7. **Citation**

Regulation 1 is repealed.

8. **Interpretation**

Regulation 2 is amended -

(a) by repealing the definitions of “storage chamber” and “storage chamber with vehicular access”;

(b) by adding -

““material recovery chamber” (物料回收房) means a chamber in which separating and sorting of reusable or recyclable materials are carried out and recovered materials are stored;

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

“recovered materials” (回收物料) means any reusable or recyclable materials which are recovered from refuse;

“recyclable materials”(可循環再造物料) means any materials which are capable of being regenerated into raw materials in the manufacture of new products;

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

“refuse storage and material recovery chamber with vehicular access”

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

“refuse storage and material recovery room” (垃圾及物料回收室)

means a single room in any building which is used for separation of refuse and storage of refuse and recovered materials;

“reusable materials” (可再使用物料) means any materials which are

capable of being used again or repeatedly in its current form without breaking down into raw materials;

“reusable or recyclable materials” (可再使用或可循環再造物料)

means the composition of reusable materials and recyclable materials, including paper, paperboard, plastic, glass, wood and metal;”.

9. Refuse storage and material recovery chambers or material recovery chambers to be provided for in plans relating to buildings specified in the Schedule

Regulation 3 is amended -

- (a) in paragraph (1), by repealing “storage chamber” wherever it appears and substituting “refuse storage and material recovery chamber or material

recovery chamber”;

(b) in paragraph (3), by repealing “, an industrial building”.

10. Refuse storage and material recovery chambers to comply with regulations 5 to 12A

Regulation 4 is amended -

(a) by repealing “storage chamber” and substituting “refuse storage and material recovery chamber”;

(b) by repealing “12” and substituting “12A”.

11. Regulations added

The following are added -

“4A. Material recovery chambers to comply with regulations 5 to 12A

Where a material recovery chamber is provided in any building it shall be so designed as to comply with the requirements of refuse storage and material recovery chambers set out in regulations 5 to 12A.

4B. Refuse storage and material recovery rooms to comply with regulations 8(1), 12A, 12B and 12C

Where a refuse storage and material recovery room is provided on any floor in any building it shall be so designed as to comply with -

(a) the requirements of refuse storage and material recovery chambers set out in regulations 8(1) and 12A; and

(b) the requirements of regulations 12B and 12C.”.

12. Access to refuse storage and material recovery chambers for emptying refuse containers and recovered materials

Regulation 5 is amended -

(a) in paragraph (1) -

(i) by repealing “storage chamber” where it twice appears and substituting “refuse storage and material recovery chamber”;

(ii) by adding “and recovered materials” after “container”;

(b) in paragraph (2), by repealing “storage chamber” where it twice appears and substituting “refuse storage and material recovery chamber”.

13. Refuse storage and material recovery chambers to be fully enclosed save for door etc.

Regulation 6 is amended by repealing “storage chamber” and substituting “refuse storage and material recovery chamber”.

14. Refuse storage and material recovery chambers to have one external wall

Regulation 7 is amended by repealing “storage chamber” and substituting “refuse storage and material recovery chamber”.

15. Minimum dimensions of refuse storage and material recovery chambers

Regulation 8(1) and (2) is amended by repealing “storage chamber” and substituting “refuse storage and material recovery chamber”.

16. Construction of refuse storage and material recovery chambers

Regulation 9(1), (2), (3), (4) and (5) is amended by repealing “storage chamber” and substituting “refuse storage and material recovery chamber”.

17. Access door to refuse storage and material recovery chambers and construction thereof

Regulation 10(1) and (2) (a) and (d) is amended by repealing “storage chamber” and substituting “refuse storage and material recovery chamber”.

18. Drainage of refuse storage and material recovery chambers

Regulation 11(1) and (3) (a) is amended by repealing “storage chamber” and substituting “refuse storage and material recovery chamber”.

19. Refuse storage and material recovery chambers to have water supply point

Regulation 12(1) and (2) is amended by repealing “storage chamber” and substituting “refuse storage and material recovery chamber”.

20. Regulations added

The following are added -

“12A. Mechanical ventilation and air purifying facilities for refuse storage and material recovery chambers

Every refuse storage and material recovery chamber shall be provided with -

- (a) a ventilation system by mechanical means which shall be capable of supplying fresh air to all parts of the chamber at a rate of not less than 3 changes of air per hour; and
- (b) air purifying facilities to the exhaust part of the ventilation system mentioned in

subparagraph (a) to the satisfaction of the Building Authority.

12B. Refuse storage and material recovery rooms to be readily accessible

Every refuse storage and material recovery room shall be readily accessible by any occupier of the building at all times.

12C. Refuse storage and material recovery rooms to be provided with adequate lighting

Every refuse storage and material recovery room shall have an illumination level of not less than 120 lux measured at the finished floor level.”.

21. Refuse chutes to comply with regulations 14 to 25

Regulation 13(b) is amended by repealing “storage chamber” and substituting “refuse storage and material recovery chamber”.

22. Schedule substituted

The Schedule is repealed and the following substituted -

| | | “SCHEDULE | [reg. 3] |
|-------------------------|-----------------------------------|---|---|
| Description of building | Total floor area as shown on plan | Description of material recovery chamber/refuse storage and material recovery chamber | Minimum floor space of material recovery chamber/refuse storage and material recovery chamber |
| Domestic Building | (a) Usable floor space 1 320 | Refuse storage and material | Total usable floor space in m ² |

| | | | | |
|---|-----|---|---|--|
| | | m ² or more but less than 13 200 m ² | recovery chamber | divided by 347 |
| | (b) | Usable floor space 13 200 m ² or more | Refuse storage and material recovery chamber with vehicular access | Total usable floor space in m ² divided by 347 |
| Non-domestic Building (except Industrial Building) | (a) | Usable floor space 3 960 m ² or more but less than 39 600 m ² | Refuse storage and material recovery chamber | Total usable floor space in m ² divided by 925 |
| | (b) | Usable floor space 39 600 m ² or more | Refuse storage and material recovery chamber with vehicular access | Total usable floor space in m ² divided by 925 |
| Industrial Building | (a) | Usable floor space 3 960 m ² or more but less than 39 600 m ² | Material recovery chamber | Total usable floor space in m ² divided by 2 320 but not less than 2.25 m ² |

| | | | |
|--------------------|---|--|---|
| | (b) Usable floor space 39 600 m ² or more | Material recovery chamber with vehicular access | Total, usable floor space in m ² divided by 2 320 |
| Composite Building | (a) Aggregate usable floor space 1 320 m ² or more but less than 13 200 m ² | Refuse storage and material recovery chamber | Aggregate of – (a) the total usable floor space of the domestic building component in m ² divided by 347; and (b) the total usable floor space of the non-domestic building component in m ² divided by 925 |
| | (b) Aggregate usable floor space 13 200 m ² or more | Refuse storage and material recovery chamber with vehicular access | Aggregate of – (a) the total usable floor space of the domestic building component in |

- m², divided by
347; and
(b) the total usable
floor space of the
non-domestic
building
component in m²
divided by 925”.

Explanatory Memorandum

This Bill amends the Buildings Ordinance (Cap. 123) as follows -

- (a) clause 2 imposes an application fee for every application for inclusion of name in any list of the authorized persons’ register or in the structural engineers’ register;
- (b) clause 3 amends section 17(1) in the conditions the Building Authority may impose before his approval of plans and consent to commence building works is given;
- (c) clause 4 amends section 21 (6) (f) so that the requirement of performance review is consistent with the provisions of section 17 (1);
- (d) clause 5 amends section 38 to expand the regulation-making powers of the Secretary for Planning and Lands in relation to the planning and design of buildings and enable regulations made under the Ordinance to specify a daily penalty for

a continuing offence;

- (e) clause 6 increases the maximum penalty for certain offences and corrects a cross-reference in section 40(2AA).

2. Clause 7 and the Schedule provide for consequential and other amendments to subsidiary legislation made under the Ordinance as follows -

- (a) the Building (Administration) Regulations (Cap. 123) sub. leg.) in the adjustment of payment of application fees by the authorized persons and the structural engineers;
- (b) the Building (Planning) Regulations (Cap. 123 sub. leg.) -
 - (i) in excluding material recovery related facilities, access facilities for telecommunication and broadcasting services and certain floor space in a hotel in determining the gross floor area, and adding new provisions relating to such facilities; and
 - (ii) in empowering the Building Authority to treat a hotel building as a non-domestic building;
- (c) the Building (Refuse Storage Chambers and Chutes) Regulations (Cap. 123 sub. leg.) in amending the provisions in the Regulations consequential to the introduction of the provision of material recovery related facilities to the Ordinance.

Hotel Development

To encourage hotel development, the Building Authority will for bona fide hotel proposals favourably consider applications to modify the site coverage and plot ratio limits in the Building (Planning) Regulations up to *non-domestic* standards. Plot ration limits set on statutory outline zoning plans will, of course, have to be satisfied too.

2. For hotel proposals to qualify, they should meet the following criteria:
 - (a) The Hong Kong Tourist Association supports the proposal and its Executive Director signs such an endorsement personally;
 - (b) The site relative to its neighbourhood is suitable for hotel development. As a general rule, sites in Zones 2 and 3 (as defined in the Planning Department Density Zoning Schedules) will not qualify for concessions, nor will sites in an area where a hotel is incompatible with the predominant type of development;
 - (c) An adequate number and width of streets are available to serve the proposed hotel and to cope with the additional vehicular and pedestrian traffic generated;
 - (d) Services ancillary to the functions of a hotel (eg dining, entertainment and basic shopping facilities) are provided; and
 - (e) The whole building is provided with a central air-conditioning or mechanical ventilation system and a centralized hot water supply.
3. Applications for modifications to existing hotels will also be considered on the above criteria.
4. The various concessions listed in earlier versions of this PNAP are considered spent of effect and are now withdrawn. In addition to the exemption allowable under Building (Planning) Regulation 23(3)(b) in respect of the gross floor areas used as plant rooms, for utility installations and car parking, the Building Authority accepts that to make for better functioning of hotels, similar exemption may be justifiable for some facilities special and essential to hotels. These facilities are:
 - Suitably designed setting-down and picking-up areas for hotel users; and
 - Back-of-the-house facilities.

5. Back-of-the-house facilities for a hotel are unique and integral to the normal operation of the hotel. Their omission or under-provision would result in a poorer quality of life for persons occupying the front of the house, i.e. hotel rooms. For exemption to be given to them from plot ratio computation, the Building Authority will require to see that the back-of-the-house facilities comply with the following criteria:

- (a) Their size is reasonable, their location practical and their design genuine to serve the intended purpose;
- (b) They are accessible to hotel staff only; and
- (c) Abuse is impossible or unlikely.

Without being derogatory from the above announcement, some examples are given:

Acceptable as back-of-the-house facilities --

- Workshops, such as laundry, carpentry, mechanical and electrical;
- Storage areas, such as dry goods, food and beverage, linen and furniture;
- Facilities for the welfare of staff, such as changing room, rest room, staff canteen.

Unacceptable facilities --

- Shops, restaurants, cinemas and any commercial use (other than hotel) to which the general public has access.

6. In the longer term, we will seek the necessary legislative amendments to the Buildings Ordinance and Regulations.

(CHOI Yu-leuk)
Building Authority

Ref.:BD GP/BL/P/22 (II)

First issued February 1985

This revision August 1996 (AD/D) - Paras 4 and 5 added

Index under : Hotel concessions
Hotel development

**Proposed Requirements of Telecommunication
and Broadcasting Equipment (TBE) Rooms**

Location

The TBE rooms shall be located in an area not susceptible to flooding.

2. For development with mixed uses or comprising separate tower blocks with different uses on top of a commercial podium, separate TBE rooms shall be provided and located within each tower blocks and the commercial podium to serve each particular use.

Minimum dimensions

3. The attached table proposes the minimum floor space and ceiling height of TBE rooms which shall be provided in various types of buildings.

Standards

4. In addition to the location and minimum dimensions requirements, the TBE rooms shall also conform to the following standards which enable the network operators to install and maintain their equipment:

- (i) the rooms shall be linked up with the vertical block wiring system of the building;
- (ii) no water pipes, sewage pipes, water drainage, water sprinklers, high voltage power supply (exceeding 600V between phase and earth for three-phase, or 1000V for single-phase, or 1500 V dc) cables, power transformers shall be installed within the TBE rooms;
- (iii) sufficient lighting, electricity supply and ventilation shall be provided; and
- (iv) separate telecommunications earth electrode shall be provided.

Proposed Design Requirements for Access Facilities for use by Telecommunication and Broadcasting Network Operators

| Commercial and Industrial Buildings | | | | | | | | | |
|---|---------------|-----------------|------------------|-------------------|-------------------|-------------------|-------------------|--------------------|---------------------|
| Usable floor space AE (x 1000 m^2) | $\text{AE}=2$ | $2<\text{AE}=4$ | $4<\text{AE}=12$ | $12<\text{AE}=24$ | $24<\text{AE}=48$ | $48<\text{AE}=72$ | $72<\text{AE}=96$ | $92<\text{AE}=120$ | $120<\text{AE}=144$ |
| No. of lead-in duct | 2 | 3 | 3 | 4 | 4 | 8 | 8 | 8 | 8 |
| Inside diameter of lead-in duct (mm) | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| Minimum floor space of TBE Room (m^2) | Not required | 22 | 42 | 51 | 61 | 79 | 88 | 107 | 113 |
| Minimum ceiling height of TBE Room(m) | | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 |
| Vertical riser (mm) | 100x100 | 300x200 | 300x200 | 400x200 | 400x200 | 600x250 | 650x250 | 750x250 | 900x250 |
| No. of vertical riser slot | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 |

| Residential Buildings (other than buildings for single family residence) | | | | | | | | |
|---|--------------|----------|------------|-------------|-------------|-------------|--------------|---------------|
| No. of flats in a block, N | N=5 | $5<N=50$ | $50<N=100$ | $100<N=250$ | $250<N=500$ | $500<N=750$ | $750<N=1000$ | $1000<N=1500$ |
| No. of lead-in duct | 2 | 3 | 3 | 3 | 4 | 4 | 4 | 4 |
| Inside diameter of lead-in duct (mm) | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| Minimum floor space of TBE Room (m^2) | Not required | 7 | 21 | 24 | 29 | 39 | 43 | 48 |
| Minimum ceiling height of TBE Room (m) | | 2.8 | 2.8 | 2.8 | 2.8 | 2.8 | 3 | 3 |
| Vertical riser (mm) | 75x75 | 200x100 | 200x100 | 200x200 | 300x200 | 300x200 | 300x200 | 400x200 |
| No. of vertical riser slot | 1 | 1 | 1 | 1 | 1 | 2 | 2 | 2 |

| Hotel Buildings | | | | | | | |
|--|---------|-------------|-------------|-------------|--------------|---------------|-----|
| No. of rooms, N | N=200 | $200<N=400$ | $400<N=600$ | $600<N=800$ | $800<N=1000$ | $1000<N=1200$ | |
| No. of lead-in duct | 3 | 3 | 3 | 3 | 3 | 3 | 3 |
| Inside diameter of lead-in duct (mm) | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| Minimum floor space of TBE Room (m^2) | 24 | 24 | 26 | 28 | 35 | 37 | |
| Minimum ceiling height of TBE Room (m) | 3 | 3 | 3 | 3 | 3 | 3 | |
| Vertical riser (mm) | 200x200 | 300x200 | 300x200 | 300x200 | 400x200 | 400x200 | |
| No. of vertical riser slot | 1 | 1 | 2 | 2 | 2 | 2 | |

Note 1 : The definition of “Usable Floor Space” shall have the same meaning as defined in the Building (Planning) Regulations.

Note 2 : “TBE room” is the abbreviated form for Telecommunication and Broadcasting Equipment Room which means a room used for terminating the cables and housing the ancillary equipment of operators of telecommunications and broadcasting services.

Note 3 : “Lead-in duct” means duct running between lead-in chamber (outside the building boundary) to the TBE room.

Note 4 : “Vertical riser” means duct for carrying the cables for telecommunications and broadcasting services from the TBE room to each floor of a building.

**Provisions which are being amended
by the Buildings (Amendment) Bill 2000**

Buildings Ordinance (Cap. 123)

- Section 3 - Registers of authorized persons and structural engineers
- Section 17 - Conditions may be imposed in certain cases
- Section 21 - Occupation of new building
- Section 38 - Regulations
- Section 40 - Offences

Building (Administration) Regulations

- Regulation 42 - Fees

Building (Planning) Regulations

- Regulation 2 - Interpretation
- Regulation 23 - Provision supplementary to regulations 19, 20, 21 and 22

Building (Refuse Storage Chambers and Chutes) Regulations

- The Title - Empowering section
- Regulation 1 - Citation
- Regulation 2 - Interpretation
- Regulation 3 - Storage chambers to be provided for in plans relating to buildings specified in the Schedule
- Regulation 4 - Storage chambers to comply with regulations 5 to 12

- Regulation 5 - Access to storage chambers for emptying refuse containers
- Regulation 6 - Storage chambers to be fully enclosed save for door etc.
- Regulation 7 - Storage chambers to have one external wall
- Regulation 8 - Minimum dimensions of storage chambers
- Regulation 9 - Construction of storage chambers
- Regulation 10 - Access door to storage chambers and construction thereof
- Regulation 11 - Drainage of storage chambers
- Regulation 12 - Storage chambers to have water supply point
- Regulation 13 - Refuse chutes to comply with regulations 14 to 25
- Schedule

Annex D

| | | | | | |
|----------|-----|----------|--|-----------------|---------------------|
| Chapter: | 123 | Title: | BUILDINGS ORDINANCE | Gazette Number: | L.N. 532 of 1997 |
| Section: | 3 | Heading: | *Registers of authorized persons and structural engineers | Version Date: | 07/11/1997 |

PART I

AUTHORIZED PERSONS, REGISTERED STRUCTURAL ENGINEERS AND REGISTERED CONTRACTORS

(Amended 52 of 1974 s. 3; 43 of 1987 s. 44; 54 of 1996 s.3)

(1) The Building Authority shall keep a register (hereinafter referred to as the “authorized persons’ register”) of all persons who are qualified to perform the duties and functions of an authorized person in accordance with this Ordinance.

(2) The authorized persons’ register contains-

- (a) a list of architects;
- (b) a list of engineers; and
- (c) a list of surveyors. (Replaced 54 of 1996 s. 4)

(3) The Building Authority shall keep a register (hereinafter referred to as the “structural engineers’ register”) of all persons who are qualified to perform the duties and functions of structural engineers (relating to more advanced structural designs of building works or street works) in accordance with this Ordinance.

(4) The Building Authority shall publish annually in the Gazette the names of-

- (a) the persons included in each of the lists in the authorized persons’ register; and
- (b) the persons included in the structural engineers’ register.

(5) The Building Authority is to establish 2 panels with sufficient members from whom he is to appoint committees to be known respectively as Authorized Persons Registration Committees and Structural Engineers Registration Committees. The Building Authority may appoint more than one Registration Committee of each type at any one time. (Replaced 54 of 1996 s. 4)

(5A)The function of a Registration Committee is to assist the Building Authority in considering applications for inclusion in the relevant register by-

- (a) examining the qualifications of applicants;
- (b) inquiring as the relevant Registration Committee considers necessary to ascertain whether an applicant has the relevant experience;
- (c) conducting professional interviews with applicants; and
- (d) advising the Building Authority to accept, defer or reject applications for inclusion in the relevant register. (Added 54 of 1996 s. 4)

(5B)An Authorized Persons Registration Committee consists of-

- (a) 4 authorized persons nominated by the Architects Registration Board from the list of architects in the authorized persons’ register;
- (b) 2 authorized persons nominated by the Engineers Registration Board from the list of engineers in the authorized persons’ register;
- (c) 1 authorized person nominated by the Surveyors Registration Board from the list of surveyors in the authorized persons’ register;
- (d) an Assistant Director of Buildings nominated by the Building Authority; and
- (e) 1 person selected by the Building Authority from among the persons nominated in accordance with subsection (5E). (Added 54 of 1996 s. 4)

(5C)A Structural Engineers Registration Committee consists of-

- (a) 3 registered structural engineers nominated by the Engineers Registration Board;
- (b) 1 authorized person nominated by the Architects Registration Board from the list of architects in the authorized persons’ register;

- (c) 1 authorized person nominated by the Surveyors Registration Board from the list of surveyors in the authorized persons' register;
- (d) an Assistant Director of Buildings nominated by the Building Authority; and
- (e) 1 person selected by the Building Authority from among the persons nominated in accordance with subsection (5E). (Added 54 of 1996 s. 4)

(5D)The Building Authority is to appoint an officer of the Buildings Department as the secretary of each Registration Committee, who is not a member of either Registration Committee and may not cast a vote. (Added 54 of 1996 s. 4)

(5E)For the purpose of subsections (5B) and (5C), the Building Authority is to invite such bodies as the Building Authority may think fit to nominate persons for the Building Authority to consider for appointment to each of the respective Registration Committees. (Added 54 of 1996 s. 4)

(5F)A person appointed to be a member of the Authorized Persons' and Registered Structural Engineers' Disciplinary Board Panel under section 5A must not be a member of a Registration Committee. (Added 54 of 1996 s. 4)

(5G)The quorum for a meeting of a Registration Committee is-

- (a) the Chairman of the committee;
- (b) the Assistant Director of Buildings nominated under subsection (5B)(d) or (5C)(d); and
- (c) 3 other members for an Authorized Persons Registration Committee and 2 other members for a Structural Engineers Registration Committee. (Added 54 of 1996 s. 4)

(5H)At least one member of the Registration Committee at a meeting hearing an application for inclusion in a register must be-

- (a) for an Authorized Persons Registration Committee, on the same list in the authorized persons' register as that on which the applicant wishes to be included; and
- (b) for a Structural Engineers Registration Committee, a registered structural engineer. (Added 54 of 1996 s. 4)

(5I) The Chairman of a Registration Committee is elected by its members. (Added 54 of 1996 s. 4)

(5J) A Registration Committee is required to meet as often as the Building Authority directs. (Added 54 of 1996 s.4)

(6) Every applicant for inclusion in the authorized persons' register or the structural engineers' register shall submit his application in the specified form to the secretary of the respective Registration Committee. (Amended 68 of 1993 s. 3)

(6A)An applicant under subsection (6)-

- (a) shall specify in the application a period (which shall be a period of 12 months beginning on the date of inclusion of his name in the register concerned) as the period for which he seeks his name to be retained in that register;
- (b) shall pay, as regards such retention, the appropriate prescribed fee (which shall be in addition to the fee payable in respect of the inclusion of the name in the register). (Added 77 of 1994 s. 3)

(7) A person must not be included in a register unless-

- (a) he has obtained the prescribed qualifications; and
- (b) he is recommended by the respective Registration Committee for inclusion. (Replaced 54 of 1996 s. 4)

(7A)If an applicant for inclusion in a register fails to satisfy subsection (7), the Building Authority shall refuse the application. (Added 54 of 1996 s. 4)

(7B)If an applicant for inclusion in a register satisfies subsection (7), the Building Authority shall grant the application unless for other reasons he thinks fit to refuse the application. (Added 54 of 1996 s. 4)

(7C)The Building Authority shall give reasons in writing to-

- (a) the applicant for the refusal of an application for inclusion in a register;
- (b) the respective Registration Committee for the refusal of an application for inclusion in a register,

and the reasons must refer to the requirements of subsections (7) and (7B). (Added 54 of 1996 s. 4)

(7D) In subsections (7) to (7C), “register” (名冊) means the authorized persons’ register kept under subsection (1) or the structural engineers’ register kept under subsection (3), as the case may be. (Added 54 of 1996 s. 4)

(8) Subject to subsection (7), a person’s name may be included in both the authorized persons’ register and the structural engineers’ register and in more than 1 list in the authorized persons’ register.

(9) In respect of every application for inclusion in any list in the authorized persons’ register or in the structural engineers’ register, the Building Authority shall within 3 months from the date of the meeting of the respective Registration Committee at which the application was considered-

- (a) on payment by the applicant of the prescribed fee, publish in the Gazette and enter in the appropriate list or, as the case may be, register the name of the applicant; or
- (b) inform the applicant that his application is deferred for a period not exceeding 12 months; or
- (c) refuse his application.

(9A) An application that has been deferred under subsection (9)(b) shall, when it comes up for consideration again-

- (a) be accepted, so that the applicant is included in the appropriate list or registered, as the case may be, upon payment of the prescribed fee; or
- (b) be refused. (Added 57 of 1987 s. 3)

(9B) A person-

- (a) whose name is included or retained in or restored to the authorized persons’ register or the structural engineers’ register, under this section; or
- (b) whose registration expires pursuant to section 53F(1)(i),

may apply to the Building Authority, in accordance with subsection (9C), for the further retention or retention, as may be appropriate, of his name in the register for a period of 12 months. (Added 77 of 1994 s. 3)

(9C) An application under subsection (9B) shall be-

- (a) in the specified form;
- (b) made so as to be received by the Building Authority not earlier than 4 months and not later than 28 days prior to the date of the expiry of the relevant registration; and (Replaced 54 of 1996 s. 4)
- (c) accompanied by the appropriate prescribed fee; (Added 77 of 1994 s. 3)
- (d) accompanied by a copy of a valid certificate of registration or of renewal of registration issued under the respective Registration Ordinance. (Added 54 of 1996 s. 4)

(9D) The Building Authority shall refuse an application under subsection (9B) unless the applicant holds the prescribed qualifications for registration as an authorized person or a registered structural engineer. (Added 54 of 1996 s. 4)

(9E) The registration of an authorized person or structural engineer will continue to be in force if he makes an application for retention within the time limit and pays the retention fee until his application for retention is finalised by the Building Authority, subject to any decision of the relevant Disciplinary Board. (Added 54 of 1996 s. 4)

(10) Where an application made under subsection (6) is refused or deferred under subsection (9) or (9A), the applicant may appeal under section 44 from the refusal or decision to defer. (Replaced 77 of 1994 s. 3)

(11) The Building Authority may remove from the authorized persons’ register or the structural engineers’ register, after sending by post notice of his intention to the last known address of the person, the name of any person who-

- (a) is deceased; or (Amended 77 of 1994 s. 3)
- (b) is not practising the profession in respect of which the name of that person was included in the register. (Replaced 75 of 1976 s. 2. Amended 77 of 1994 s. 3)
- (c) (Repealed 77 of 1994 s. 3)

(11A) A name included or retained in or restored to the authorized persons’ register or the structural engineers’ register or both such registers, under this section or pursuant to section 53F, shall be removed

by the Building Authority (with or without notice to the person concerned) if the Building Authority does not-

- (a) before the date of expiry of the relevant registration, receive an application under subsection (9B) as regards such registration; or
- (b) allow such an application received by him,

and any such removal shall be effective from the date of expiry of that registration. (Added 77 of 1994 s. 3)

(11B)The Building Authority shall remove a name included or retained in or restored to the authorized persons' register or the structural engineers' register under this section or section 53F if the Building Authority receives notice that an authorized person or a registered structural engineer has ceased to hold the prescribed qualifications by virtue of which he was registered. (Added 54 of 1996 s. 4)

(11C)The Building Authority shall give notice of the removal of a name from a register under subsection (11B), by prepaid registered post to the person's last known address. (Added 54 of 1996 s. 4)

(12)A person whose name is removed under subsection (11A), (11B) or (11C) may, within 2 years beginning on the date the relevant registration expires, apply for the restoration of his name to the relevant register. (Replaced 77 of 1994 s. 3)

(13)An application under subsection (12) shall-

- (a) be in the specified form;
- (b) (Repealed 54 of 1996 s. 4)
- (c) be accompanied by the prescribed fee for such restoration and the prescribed fee for retention of registration for 12 months; (Added 77 of 1994 s. 3)
- (d) be accompanied by a copy of a valid certificate of registration or of renewal of registration issued under the respective Registration Ordinance. (Added 54 of 1996 s. 4)

(13A) The Building Authority shall refuse an application under subsection (12) unless the applicant holds the prescribed qualifications for registration as an authorized person or a registered structural engineer. (Added 54 of 1996 s. 4)

(14) Where the Building Authority allows an application made under subsection (6), (9B) or (12) he shall-

- (a) issue to the applicant as regards the relevant registration a certificate of registration, which shall be in effect until the expiry of that registration; and
- (b) in the case of an application under subsection (12), restore the name of the applicant to the relevant register. (Added 77 of 1994 s. 3)

(15) A registration under this section shall-

- (a) be effective, in the case of-
 - (i) an inclusion in or restoration to a register of a person's name, from the date of such inclusion or restoration; and
 - (ii) a retention or further retention of a person's name in a register, from the date of the expiry of the previous registration; and
- (b) expire, unless the person's name is removed from the relevant register by order of a disciplinary board, at the expiry of 12 months from the effective date of registration calculated in accordance with paragraph (a). (Replaced 54 of 1996 s. 4)

(16) The Building Authority is required to give reasons in writing for a decision not to include, retain or restore a person's name in a register at the time of giving notice of the refusal. (Added 54 of 1996 s. 4)

(Replaced 52 of 1974 s. 4. Amended 54 of 1996 s. 4)

* Please see the transitional provisions contained in s. 33 of 54 of 1996, which section is reproduced immediately after s. 55.

| | | | | | |
|----------|-----|----------|---|-----------------|------------|
| Chapter: | 123 | Title: | BUILDINGS ORDINANCE | Gazette Number: | |
| Section: | 17 | Heading: | Conditions may be imposed in certain cases | Version Date: | 30/06/1997 |

(1) Where an application is made to the Building Authority in respect of any of the building works or street works set out in Column A, he may take such action by way of imposing conditions and requirements by orders in writing, and refusing his approval of plans or his consent to commence the building works or street works as is set out in Column B opposite the particular item in Column A.

| A | B |
|---|--|
| 1. Approval of plans of building works in connection with an existing building which would result in a new building. | 1. For the purpose of making such new building comply with the standard of structural stability and public health established from time to time by regulations- <ul style="list-style-type: none"> (a) require plans to be submitted showing additional building works, and refuse approval of the plans already submitted pending his approval of such plans together with the plans required to be submitted under this section; and (b) require to be carried out the building works shown on such approved additional plans or such other building works as he may consider necessary. |
| 2. Approval of plans of building works for the erection of a new building to which access is to be obtained by means of an existing access road which does not comply with the regulations. | 2. For the purpose of making such access road comply with the regulations- <ul style="list-style-type: none"> (a) require plans to be submitted showing the necessary street works; and (b) require street works to be carried out in accordance with an approved plan. |

| A | B |
|--|--|
| 3. Approval of plans of street works where in the opinion of the Building Authority- <ul style="list-style-type: none"> (a) the bearing capacity of the ground forming the foundation of the carriage-way is such that the thicknesses of materials to be used in the surfacing thereof, as prescribed by regulations, are inadequate; or (b) that the volume of traffic which may be expected to use such street is such that a carriage-way constructed in accordance with the regulations will be inadequate. | 3. Require such carriage-way to be constructed in such manner as he may prescribe. |
| 4. Approval of plans of building works or street works involving the construction, formation, laying out or any alteration of any access to or opening to or from any street. | 4. Require such access or opening to be constructed and sited in such manner as in his opinion will ensure the safety and convenience of traffic and pedestrians using or expected to use such street. |

- | | |
|--|--|
| <p>5. Consent to commence building works to be carried out on land-</p> <p>(a) abutting or fronting on a new private street; or</p> <p>(b) to which access is to be obtained by means of a new access road or an access road to which alterations are to be made.</p> | <p>5. For the purpose of making such private streets or access roads comply with the regulations-</p> <p>(a) require plans of street works to be submitted and may refuse his consent to the commencement of the building works until he has approved such plans; and</p> <p>(b) require street works to be carried out in accordance with an approved plan.</p> |
| <p>6. Approval of plans showing, or consent to commence, building works involving-</p> <p>(a) the structural use of materials; (Replaced 57 of 1987 s. 4)</p> <p>(b) site formation works, excavation works, piling works or any other structural works; or (Replaced 57 of 1987 s. 4)</p> <p>(c) ground investigation in the scheduled areas. (Replaced 41 of 1982 s. 5. Amended 52 of 1990 s. 4)</p> | <p>6. Require and prescribe conditions for-</p> <p>(a) maximum loads and stresses;</p> <p>(b) tests of materials;</p> <p>(c) the use of materials;</p> <p>(ca) instrumentation for checking design assumptions and monitoring the effect of the works;</p> <p>(d) standards of workmanship;</p> <p>(e) qualified supervision;</p> <p>(f) the sequence of works in respect of works in area number 1 of the scheduled areas; and (Amended 52 of 1990 s. 4)</p> <p>(g) a performance review in respect of works in the scheduled areas. (Replaced 41 of 1982 s. 5. Amended 52 of 1990 s.4)</p> |
| <p>7. Approval of plans showing, or consent to commence, site formation works, piling works, excavation works or foundation works.</p> | <p>7. Prescribe conditions subject to which the works may be carried out, being conditions that the Building Authority considers necessary to prevent a collapse, whether total or partial, or the likelihood of such a collapse, of any adjoining or other building, street or land or to prevent any adjoining or other building, street or land becoming so dangerous, or the likelihood of any such building, street or land becoming so dangerous, that it will collapse or be likely to collapse, either totally or partially. (Added 27 of 1964 s.3. Amended 40 of 1965 s. 2; 23 of 1969 s. 4; 72 of 1980 s. 5)</p> <p style="text-align: right;">(Added 44 of 1959 s. 4)</p> |

(2) Where the Building Authority approves plans of building works, or gives his consent to the commencement of building works, pursuant to the directions of a committee of review given under subsection (8) of section 50, he shall impose such conditions as the committee of review may have required under that subsection. (Added 40 of 1965 s. 2)

| | | | | | |
|----------|-----|----------|-----------------------------------|-----------------|------------|
| Chapter: | 123 | Title: | BUILDINGS ORDINANCE | Gazette Number: | |
| Section: | 21 | Heading: | Occupation of new building | Version Date: | 30/06/1997 |

- (1) No new building shall be occupied in any way except by not more than 2 caretakers unless-
- (a) in respect of such building the Building Authority has issued an occupation permit; or (See Form 22)
 - (b) in respect of the whole or any part of the building which is being occupied there is a temporary occupation permit, issued by the Building Authority, which temporary occupation permit has not expired and has not been revoked by the Building Authority. (See Form 24) (Amended 23 of 1969 s. 5; 68 of 1993 s. 12)
- (2) On receiving an application in the appropriate specified form, the Building Authority may issue-(See Forms 19 & 20) (Amended 68 of 1993 s. 12)
- (a) an occupation permit in respect of the new building which is the subject of such application; or
 - (b) a temporary occupation permit in respect of the whole or any part of a new building which is completed and which is the subject of the application. (Amended 23 of 1969 s. 5)
- (3) On the issue of a temporary occupation permit, the Building Authority may impose such conditions as he may consider necessary including a condition limiting the duration of the temporary occupation permit to such period as he may consider necessary and may revoke a temporary occupation permit for breach of any such condition by the service on the building owner of notice of revocation in writing. (See Form 25) (Amended 68 of 1993 s. 12)
- (4) If an occupation permit is issued in respect of a building, every temporary occupation permit issued in respect of the whole or any part of the building shall thereupon be deemed to have been revoked. (Amended 23 of 1969 s. 5)
- (5) If a temporary occupation permit in respect of the whole or a part of a building has been revoked or has expired and an occupation permit has not been issued in respect of the building, the provisions of subsection (1) shall apply to the building or to such part of the building, as the case may be, on the expiration of 7 days from the expiry or revocation of the temporary occupation permit. (Amended 23 of 1969 s. 5)
- (6) The Building Authority may refuse to issue a temporary occupation permit or an occupation permit under this section where-
- (a) any part of the building works has been carried out in contravention of any of the provisions of this Ordinance;
 - (b) any street works required under the provisions of this Ordinance in connection with any new private street or any access road, on to which the building abuts or fronts or by which access is obtained, remain to be completed;
 - (c) in the case of a building in which a liftway is provided, a lift has not yet been installed therein, unless the liftway has been protected to the satisfaction of the Building Authority in such manner as to avoid any danger to persons using the building;
 - (d) in the case of a building the plans whereof were certified by the Director of Fire Services in the terms indicated in section 16(1)(b)(ii), the applicant for the permit fails to produce to the Building Authority a certificate from the Director of Fire Services in such form as may be prescribed certifying that he is satisfied that the fire service installations and equipment shown on the plans aforesaid have been provided and are in efficient working order and satisfactory condition; (Added 3 of 1964 s. 3)
 - (e) in the case of a building to which by regulations a supply of water is required to be connected for any purpose, the Building Authority is not satisfied that connection of a supply of water for every such purpose, which complies in every respect with all the requirements of the regulations, has been made to the building; or (Added 16 of 1966 s. 6)
 - (f) in the case of a building in area number 1 of the scheduled areas any performance review in the opinion of the Building Authority fails to state or justify that the building works have been adequately inspected and monitored in the course of construction or that the geotechnical design assumptions upon which the building works have been based are

valid. (Added 41 of 1982 s. 6. Amended 52 of 1990 s. 5)

(7) Upon the expiration of 14 days from the date of receipt by the Building Authority of an application in the appropriate specified form, for a temporary occupation permit or for an occupation permit, such permit shall be deemed to have been granted unless the Building Authority has by notice in writing served on the building owner refused to issue such permit, specifying the ground for such refusal. (Amended 68 of 1993 s. 12)

(8) Where, in respect of a new building, an application under this section for a temporary occupation permit or for an occupation permit is submitted within 60 days of receipt by the Building Authority of a performance review required under section 17 in respect of building works for that building, the application shall, for the purpose of subsection (7), be deemed to have been received 60 days after receipt of the performance review. (Added 41 of 1982 s. 6)

(Replaced 37 of 1961 s. 2)

| | | | | | |
|----------|-----------|----------|---------------------|-----------------|---------------------|
| Chapter: | 123 | Title: | BUILDINGS ORDINANCE | Gazette Number: | L.N. 330 of 1999 |
| Section: | 38 | Heading: | Regulations | Version Date: | 30/06/1997 |

(1) The Secretary for Planning and Lands may by regulation provide for- (Amended 68 of 1993 s. 18; L.N. 330 of 1999)

- (a) registration and control of-
 - (i) authorized persons;
 - (ii) registered structural engineers;
 - (iii) registered general building contractors; (Amended 54 of 1996 s. 20)
 - (iv)-(v) (Repealed 43 of 1987 s. 44)
 - (vi) registered specialist contractors; (Replaced 52 of 1974 s. 10. Amended 54 of 1996 s. 20)
- (b) the manner of making application for and granting of approval of plans of building works or street works, and the giving of consent to commence or carry on such works, including cases where it is desired-
 - (i) to add to or alter building works or street works the commencement of which has already been consented to, or
 - (ii) to commence certain parts of building works or street works before other parts;
- (ba) the planning, design and construction of site formation works; (Added 72 of 1980 s. 14)
- (bb) the planning, design and carrying out of ground investigation in the scheduled areas; (Added 41 of 1982 s. 9. Amended 52 of 1990 s. 7)
- (c) planning and design of buildings including-
 - (i) streets;
 - (ii) projections;
 - (iii) heights, site coverage, plot ratio and open spaces including service lanes; (Amended 23 of 1969 s. 9)
 - (iv) lighting and ventilation;
 - (v) sanitation;
 - (vi) staircases and fire-escapes;
 - (vii) domestic buildings;
 - (viii) buildings for special uses including industrial buildings, places of public entertainment and schools;
 - (ix) any sea-wall, breakwater, jetty, mole, quay, wharf or pier; (Amended 6 of 1995 s. 4)
 - (x) exceptional structures;
 - (xi) timber yards and hoardings; (Amended 23 of 1969 s. 9)
 - (xii) fire fighting equipment; and (Added 37 of 1961 s. 6. Amended 43 of 1993 s. 8)
 - (xiii) matters relating to the installation of lifts and escalators; (Added 43 of 1993 s. 8)
- (d) the construction of buildings including-
 - (i) materials;
 - (ii) loads and stresses;
 - (iii) foundations, floors and sites;
 - (iv) walls and piers;
 - (v) roofs, flues and chimneys;
 - (vi) structural steel work, reinforced concrete, and timber;
 - (vii) fire-resisting construction;
 - (viii) retaining walls;
 - (ix) plumbing and drainage;
 - (x) wells;
 - (xi) matters relating to the installation of lifts and escalators; and (Amended 43 of 1993 s. 8)
 - (xii) refuse chutes and refuse storage chambers; (Amended 32 of 1984 s. 2)
- (e) the supply of water to buildings for all purposes, including the connection thereof to buildings and the arrangement, size, construction and type of piping therefor and the

power of the Building Authority to require that the supply of water be obtained from a particular source or to prohibit or restrict the supply of water from any particular sources; (Added 16 of 1966 s. 9)

- (f) (Repealed 43 of 1993 s. 8)
- (g) the construction, inspection, testing and safe working of ventilating systems; (Added 27 of 1964 s. 5)
- (h) the testing of drainage works and matters ancillary thereto;
- (i) the demolition of buildings and the safety precautions to be taken in respect thereof; (Added 37 of 1961 s. 6)
- (ia) the design, construction, licensing, inspection, testing and maintenance of oil storage installations and matters connected therewith, including the imposition of restrictions and conditions relating to the use of such installations for the storage of petroleum products; prohibiting the use of any oil storage installation, requiring any petroleum products to be removed from any oil storage installation, the seizure, removal and detention of any petroleum products not removed from any oil storage installation as required, the power of entry, inspection and examination; and for the establishment of a Standing Advisory Committee to advise the Building Authority on such matters relating to oil storage installations as may be specified in the regulations; (Added 16 of 1978 s. 3. Amended 5 of 1983 s. 3; 68 of 1993 s. 18)
- (ib) as regards the conservation of energy-
 - (i) requirements relating to the planning, design and construction of any building or buildings of a class or description specified in the regulations, including the furnishing of information regarding these matters;
 - (ii) as regards buildings complying with or required to comply with regulations under subparagraph (i), exemptions from specified requirements in any other regulation made under this subsection; (Added 77 of 1994 s. 11)
- (j) the granting of permits for and control of buildings required for a limited time or constructed of short-lived materials;
- (k) plans, notices and certificates to be delivered to the Building Authority;
- (l)-(m) (Repealed 68 of 1993 s. 18)
- (n) the better carrying into effect of the provisions of this Ordinance. (Replaced 44 of 1959 s. 18)

(1A) The Governor in Council may by regulation provide for the imposition of fees in respect of any matter with regard to which provision is made in this Ordinance or in regulations made under this Ordinance. (Added 68 of 1993 s. 18)

(1B) The Governor in Council may by regulation provide for-

- (a) the procedure as regards the exercise of the right of appeal conferred by section 44;
- (b) the practice and procedure of an Appeal Tribunal constituted under section 48; and
- (c) matters ancillary or incidental to those specified under paragraph (a) or (b). (Added 77 of 1994 s. 11)

(1C) Regulations made under subsection (1)(ib) may provide that any requirement in such regulations applies to a building, any part of a building or parts of a building as are specified. (Added 77 of 1994 s. 11)

(2) Regulations under this section may provide for the carrying out by the Building Authority of all building works required to be carried out therein, and for the recovery of the costs thereof from the person required to carry out such building works. (Amended 68 of 1993 s. 18)

(3) (a) Regulations under this section may provide that where the Building Authority issues permits thereunder he may-

- (i) endorse conditions on such permits;
- (ii) cancel such permits for breaches thereof; and
- (iii) require the permittee to deposit a sum not exceeding \$500 as security for the due compliance with such conditions.

(b) Upon the breach of any such condition, any deposit required by this subsection shall upon application to a magistrate be declared by him to be forfeited to the Crown.

(3A) The amount of fees provided for in regulations made under subsection (1A) in respect of the making of application for or granting of approval of plans of building works or street works may be fixed

at levels which provide for the recovery of expenditure incurred or likely to be incurred generally by the Government in relation to such application or approval and need not be limited by reference to the administrative or other costs incurred or likely to be incurred in the processing of any individual submission of plans. (Added 68 of 1993 s. 18)

(4) Regulations under this section may provide that a contravention of any specified provision thereof shall be an offence and may prescribe penalties therefor not exceeding a fine of \$100000 and imprisonment for 2 years. (Replaced 24 of 1979 s. 2)

(5) Regulations under this section shall be published once in the Gazette at least 3 weeks before coming into operation:

Provided that where the Secretary for Planning and Lands or the Governor in Council, as the case may be, deems it expedient such publication may be dispensed with. (Amended 68 of 1993 s. 18; L.N. 330 of 1999)

(Amended 44 of 1959 s. 18)

| | | | | | |
|----------|-----------|----------|---------------------|-----------------|---------------------|
| Chapter: | 123 | Title: | BUILDINGS ORDINANCE | Gazette Number: | L.N. 172 of 1998 |
| Section: | 40 | Heading: | Offences | Version Date: | 01/04/1998 |

Remarks:

1. The amendments to this section made by Ord. No. 54 of 1996 s. 22 have come into operation on 7 November 1997 (only in so far as that section repeals section 40 in respect of registered contractor or contractor and substitutes provisions in respect of registered general building contractor) - see L.N. 532 of 1997.
2. Remaining amendments to this section made by Ord. No. 54 of 1996 s.22 have commenced operation since 1 April 1998.

PART IV

OFFENCES

(1) Any person who contravenes section 14(1) or 21(1) shall be guilty of an offence and shall be liable on conviction-

- (a) to a fine of \$100000 and to imprisonment for 2 years; and
- (b) to a fine of \$5000 for each day during which it is proved to the satisfaction of the court that the offence has continued. (Replaced 24 of 1979 s. 3)

(1A) Any person who contravenes section 22(2)(a), 24B(14) or 27(5)(a) shall be guilty of an offence and shall be liable on conviction to a fine of \$5000 and to imprisonment for 6 months. (Added 24 of 1979 s. 3. Amended 91 of 1990 s. 6)

(1B) Any person who-

- (a) contravenes section 30(1) or 31(1); or
- (b) without reasonable excuse, fails to comply with an order served on him under section 19(2), 20(2), 22(3), 23, 24(1), 25(2), 26(1), 26A(1) or (3), 27A(1) or (2B), 27C(1) or (4), 28(2)(a) or (3) or (5), 29(2)(a), 30(3) or 31(2)(a), (Amended 77 of 1992 s. 4; 55 of 1996 s. 9)

shall be guilty of an offence and shall be liable on conviction-

- (i) to a fine of \$50000 and to imprisonment for 1 year; and
- (ii) in the case of an offence consisting of a failure to comply with an order served on him under section 23, 24(1), 25(2), 26(1), 26A(1) or (3), 27A(1) or (2B), 27C(1) or (4) or 28(3) or (5) to a further fine of \$5000 for each day during which it is proved to the satisfaction of the court that the failure to comply with the order has continued. (Added 24 of 1979 s. 3. Amended 72 of 1980 s. 15; 77 of 1992 s. 4, 55 of 1996 s. 9)

(1C) Any person who-

- (a) without reasonable excuse, fails to comply with an order served on him under section 32(2); or
- (b) contravenes section 24B(8) or 32(3), (Amended 91 of 1990 s. 6)

shall be guilty of an offence and shall be liable on conviction to a fine of \$2000 and to imprisonment for 6 months. (Added 24 of 1979 s. 3)

(1D) Any owner who-

- (a) fails to serve upon all former occupiers who have notified him of their addresses, the copies required to be served under section 27(10)(a); or
- (b) fails to serve upon the Building Authority the certificate required to be served under section 27(10)(b),

shall be guilty of an offence and shall be liable on conviction to a fine of \$10000 and to imprisonment for 6 months. (Added 45 of 1985 s. 2)

(1E) Any person who contravenes section 24B(6) shall be guilty of an offence and shall be liable on conviction to a fine of \$50000 and to imprisonment for 1 year and to a further fine of \$5000 for each day during which the offence continues. (Added 91 of 1990 s. 6)

(2) Any person who-

- (a) fails to give any notice required to be given under section 25(1);
- (b) contravenes any condition of a permit granted by the Building Authority under section 42; or
- (c) obstructs the Building Authority, any officer authorized by him, any other public officer, a committee of review appointed under section 50 or any member of such committee of review, in the exercise of his or its powers under this Ordinance,

shall be guilty of an offence and shall, without prejudice to any other penalty, be liable on conviction to a fine of \$10000 and to imprisonment for 6 months. (Replaced 24 of 1979 s. 3)

(2A) Any person for whom any building works or street works are being carried out and any authorized person, registered structural engineer, registered general building contractor or registered specialist contractor directly concerned with any such works who- (Amended 43 of 1993 s. 10; 54 of 1996 s. 22)

- (a) permits or authorizes to be incorporated in or used in the carrying out of any such works any materials which-
 - (i) are defective or do not comply with the provisions of this Ordinance;
 - (ii) have not been mixed, prepared, applied, used, erected, constructed, placed or fixed in the manner required for such materials under this Ordinance;
- (b) diverges or deviates in any material way from any work shown in a plan approved by the Building Authority under this Ordinance; or
- (c) knowingly misrepresents a material fact in any plan, certificate, form or notice given to the Building Authority under this Ordinance, (Replaced 24 of 1979 s. 3)

shall be guilty of an offence and shall be liable on conviction to a fine of \$250000 and to imprisonment for 3 years. (Amended 24 of 1979 s. 3)

(2AA) Any authorized person or registered structural engineer who contravenes section 4(3)(b), or any registered general building contractor or registered specialist contractor who contravenes section 9(3)(b), shall be guilty of an offence and shall be liable on conviction to a fine of \$250000 and to imprisonment for 3 years: (Amended 54 of 1996 s. 22)

Provided that it shall be a defence in any prosecution for a contravention of any section referred to in this subsection for the person charged to prove to the satisfaction of the court that he did not know, nor could reasonably have discovered, the contravention referred to in the charge. (Added 24 of 1979 s. 3)

(2AB) Any person (whether or not an authorized person, a registered structural engineer, a registered general building contractor or a registered specialist contractor) directly concerned with any building works or street works set out in items 1, 2, 3, 4, 5 and 6 of Column A in the table to section 17(1) who contravenes any condition imposed, or fails to comply with any requirement of an order in writing, under that section in respect of such building works or street works, or the plans thereof, shall be guilty of an offence and shall be liable on conviction to a fine of \$50000 and to imprisonment for 1 year. (Added 72 of 1980 s. 15. Amended 54 of 1996 s. 22)

(2AC) Any person (whether or not an authorized person, a registered structural engineer, a registered general building contractor or a registered specialist contractor) directly concerned with any site formation works, piling works, excavation works or foundation works who contravenes any condition imposed under item 7 in the table to section 17(1) in respect of such works, or the plans thereof, shall be guilty of an offence and shall be liable on conviction to a fine of \$250000 and to imprisonment for 3 years. (Added 72 of 1980 s. 15. Amended 54 of 1996 s. 22)

(2B) Any person (whether or not an authorized person, a registered structural engineer, a registered general building contractor or a registered specialist contractor) directly concerned with any site formation works, piling works, foundation works or other form of building works who- (Amended 54 of 1996 s. 22)

- (a) carries out or has carried out such works, or authorizes or permits or has authorized or permitted such works to be carried out, in such manner that it causes injury to any person or damage to any property; or
- (b) carries out or has carried out such works, or authorizes or permits or has authorized or permitted such works to be carried out, in such manner as is likely to cause a risk of injury to any person or damage to any property,

shall be guilty of an offence and shall be liable on conviction to a fine of \$250000 and to imprisonment for 3 years. (Replaced 24 of 1979 s. 3)

(2C) Any person who, without reasonable excuse, fails to comply with an order served on him

under section 24A, shall be guilty of an offence and shall be liable on conviction-

- (a) to a fine of \$250000 and to imprisonment for 3 years; and
- (b) to a fine of \$50000 for each day during which it is proved to the satisfaction of the court that the failure to comply with the order has continued. (Added 71 of 1972 s. 5. Amended 24 of 1979 s. 3)

(2D) Any person who knowingly misrepresents a material fact in any report submitted to the Building Authority under section 27C(2)(c) shall be guilty of an offence and shall be liable on conviction to a fine of \$250000 and to imprisonment for 3 years. (Added 55 of 1996 s. 9)

(3) Any person who unlawfully and maliciously removes, pulls down, demolishes or damages, or in any way whatsoever interferes with, any shoring erected for a building pursuant to section 18(1) or any groundwater drainage works carried out pursuant to section 28A shall be guilty of an offence and shall be liable to a fine of \$50000 and to imprisonment for 1 year. (Added 27 of 1964 s. 6. Amended 24 of 1979 s. 3; 41 of 1982 s. 10)

(3A) Any person who without reasonable excuse fails to comply with a requirement imposed under section 28A to maintain groundwater drainage works shall be guilty of an offence and shall be liable to a fine of \$50000 and imprisonment for 1 year and to a further fine of \$5000 for each day during which it is proved to the satisfaction of the court that the failure to comply with the requirement has continued. (Added 41 of 1982 s. 10)

(4) Any person who, after a copy of a warrant issued under section 18(6)(c) has been posted in accordance with section 18(6)(d), obstructs the entry to the building specified in such warrant of any police officer or other person authorized by such warrant to enter the same shall be guilty of an offence and shall be liable to a fine of \$50000 and to imprisonment for 1 year. (Added 40 of 1965 s. 7. Amended 24 of 1979 s. 3)

(4A) Any person who, after a copy of warrant issued under section 28C has been posted under subsection (2) of that section, obstructs the entry upon the land specified in the warrant by any police officer or other person authorized by the warrant to enter upon the land or obstructs the carrying out or maintenance of any groundwater drainage works by any person authorized by the warrant to carry out or maintain the works shall be guilty of an offence and shall be liable to a fine of \$50000 and to imprisonment for 1 year. (Added 41 of 1982 s. 10)

(5) Any person, being a person directly concerned in or with any building works or street works, who permits the commission of any offence specified in this section shall be deemed to be guilty of such offence and shall be liable to the penalty prescribed therefor. (Replaced 44 of 1959 s. 20. Amended 43 of 1993 s. 10)

(6) Where an offence under this Ordinance committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect or default on the part of, any director, manager, or other officer concerned in the management of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, is guilty of the offence. (Replaced 6 of 1995 s. 5)

(6A) Where an offence under this Ordinance committed by a partner in a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect or default on the part of, any other partner of the partnership, that other partner is also guilty of the offence. (Added 6 of 1995 s. 5)

(7) Where anything is required to be done by the owner of a building, and by virtue of section 2 there is more than one owner of such building, it shall be a defence to any charge of failing to do that thing-

- (a) that such thing was done by another owner of the building; or
- (b) that any notice or order in respect of such thing required under this Ordinance to be served on the owner was served on another owner of the building and not on the person charged.

(7A) Where anything is required to be done by an owner of land or by a person referred to in section 27A(1), it shall be a defence to any charge of failing to do that thing that any notice or order in respect of such thing required under this Ordinance to be served on the owner or on such person was served on another owner of the land or on another such person and not on the person charged. (Added 72 of 1980 s. 15)

(8) Any prosecution under the provisions of this Ordinance may be commenced within 12 months of the commission of the offence or within 12 months of the same being discovered by or coming to the

notice of the Building Authority. (Added 44 of 1959 s. 20. Amended 68 of 1993 s. 19)

| | | | | | |
|-------------|------|----------|--|--------------------|---------------------|
| Chapter: | 123A | Title: | BUILDING (ADMINISTRATION) REGULATIONS | Gazette Number: | L.N. 174 of 1998 |
| Regulation: | 42 | Heading: | Fees | Version Date: | 01/04/1998 |

Remarks:

1. The amendments to items 2 and 9 (other than the substitution of registered specialist contractors) of this regulation made by L.N. 441 of 1997 has come into operation on 7 November 1997 - see L.N. 533 of 1997.
4. Remaining amendments to this regulation made by L.N. 441 of 1997 have commenced operation on 1 April 1998.

PART VI

FEES AND FORMS

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

TABLE OF FEES

| | By whom payable | Amount |
|---|--|--|
| 1. (a) For inclusion of name in the authorized persons' register or the structural engineers' register. | Person seeking inclusion in register. | \$6110 |
| (b) For retention of name in either one of the registers. | Authorized person or registered structural engineer. | \$840 for registration for a period of 12 months. |
| (c) Restoration of name to either one of the registers. | Person seeking restoration to register. | \$2500 |
| (L.N. 310 of 1976; L.N. 209 of 1991; L.N. 530 of 1994; 54 of 1996 s. 26) | | |
| 2. (a) For application for registration as a general building contractor- | Person seeking registration. | |
| (i) a basic fee shall be payable, covering the applicant as an individual or, where the applicant is a partnership or a corporation, the first person appointed by the applicant to act for it; | | \$4970 |
| (ii) in addition to the basic fee, where the applicant is a partnership or a corporation, for each additional person appointed in the application to act for it. | | \$4350 |
| (b) For entry of name in the register of general building contractors. | Person seeking entry in the register. | \$1500 for registration for a period of 1 year or \$1740 for registration for a period of 3 years. |

- | | | | |
|-----|---|---|---|
| (c) | For renewal of registration in the register of general building contractors. | Person seeking renewal. | \$1460 for renewal of registration for a period of 1 year or \$1700 for renewal of registration for a period of 3 years. |
| (d) | For application for restoration of name to the register from which the name of the general building contractor has been removed. | Person seeking restoration to the register. | \$2170 for restoration and \$1500 for registration for a period of 1 year or \$1740 for registration for a period of 3 years. |
| (e) | If at any time prior to the expiry of its registration (including a registration that has been renewed or restored), a registered general building contractor which is a partnership or a corporation makes any appointment of a person to act for it, regardless of whether such appointment results in the replacement of, or is in addition to, persons already appointed, then for an application for the approval of each person so appointed. | Registered general building contractor. | \$4350 |

(L.N. 441 of 1997)

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

- | | | | |
|---------|---|---|--|
| 4A. (a) | For application for registration as a specialist contractor, for each sub-register in the register of specialist contractors specified in the application- | Person seeking registration. | |
| (i) | a basic fee shall be payable, covering the applicant as an individual or, where the applicant is a partnership or a corporation, the first person appointed by the applicant to act for it; | | \$4970 |
| (ii) | in addition to the basic fee, where the applicant is a partnership or a corporation, for each additional person appointed in the application to act for it. | | \$4350 |
| (b) | For entry of name in each sub-register in the register of specialist contractors specified in the application. | Person seeking entry in the sub-register. | \$1500 for registration for a period of 1 year or \$1740 for registration for a period of 3 years. |
| (c) | For renewal of registration in each sub-register in the register of specialist contractors. | Person seeking renewal. | \$1460 for renewal of registration for a period of 1 year or \$1700 for renewal of registration for a period of 3 years. |

- (d) For application for restoration of name to each sub-register in the register of specialist contractors from which the name of the specialist contractor has been removed. or registration for a period of 1 year or \$1740 for registration for a period of 3 years. Person seeking restoration to the sub-register. \$2170 for restoration and \$1500 f
- (e) If at any time prior to the expiry of its registration (including a registration that has been renewed or restored), a registered specialist contractor which is a partnership or a corporation makes any appointment of a person to act for it, regardless of whether such appointment results in the replacement of, or is in addition to, persons already appointed, then for an application for the approval of each person so appointed. Registered specialist contractor. \$4350

(L.N. 441 of 1997)

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

6. (Repealed 54 of 1996 s. 26)

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

for any resubmission

-

Free

For the purposes of this item, a resubmission means-

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

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

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

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

- (i) a proposed new industrial building of a gross floor area of 20000 square metres or less Applicant \$2160 for every 100 square metres or part thereof, subject to a minimum charge of \$8230
- (ii) a proposed new industrial building of a gross floor of more than 20000 square metres Applicant \$1740 for every 100 square metres or part thereof, subject to a minimum charge of \$432400
- (iii) a proposed new building for which there is no accountable gross floor area, such as a transformer station, an oil storage installation, a petrol filling station, a jetty or similar structure thereof of the plan Applicant \$11200 for each size of 841 mm by 594 mm or part
- (iv) (Repealed L.N. 185 of 1992)

- | | | | |
|------|---|-----------|---|
| (v) | a proposed new non-industrial building of a gross floor area of 10000 square metres or less | Applicant | \$3430 for every 100 square metres or part thereof, subject to a minimum charge of 8230\$ |
| (vi) | a proposed new non-industrial building of a gross floor area of more than 10000 square metres | Applicant | \$2750 for every 100 square metres or part thereof, subject to a minimum charge of \$343400 |

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

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

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

- | | | | |
|----|------------------------------------|--|--------|
| 8. | For the purposes of regulation 39. | Authorized person or registered structural engineer. | \$2420 |
|----|------------------------------------|--|--------|

(L.N. 209 of 1991; L.N. 313 of 1994; L.N. 191 of 1995; L.N. 442 of 1997)

- | | | | |
|----|---|---|-------|
| 9. | For the purposes of regulation 73(5) of the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations (Cap 123 sub. leg.). | Registered general building contractor or registered specialist contractor. | \$925 |
|----|---|---|-------|

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

- | | | | |
|-----|---|-----------|-------|
| 10. | (a) For a certified copy, print or extract, issued under section 36 of the Ordinance, of or from any document (other than a plan) or any microfilm or other record of any document (other than a plan). | Applicant | \$190 |
| | (b) For a certified copy, print or extract, issued under section 36 of the Ordinance, of or from any plan or any microfilm or other record of any plan. | Applicant | \$350 |

(L.N. 103 of 1993; L.N. 313 of 1994; L.N. 191 of 1995; L.N. 442 of 1997)

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

| | | | | | |
|-------------|------|----------|---------------------------------|-----------------|------------------|
| Chapter: | 123F | Title: | BUILDING (PLANNING) REGULATIONS | Gazette Number: | L.N. 440 of 1997 |
| Regulation: | 2 | Heading: | Interpretation | Version Date: | 20/09/1997 |

(1) In these regulations, unless the context otherwise requires, words and expression have the meaning attributed to them by the Buildings Ordinance (Cap 123), and-

“balcony” (露台) means any structure projecting from any wall of any building to carry a floor or roof load either cantilevered or supported by brackets;

“canopy” (簷篷) means any structure which projects more than 500 mm from any wall of any building and at a height of not more than 7.5 m above the level of the ground to provide protection from rain or sun, not carrying any floor load, either cantilevered or supported by brackets; (G.N.A. 83 of 1959; L.N. 294 of 1976; L.N. 79 of 1992)

“cinema”(電影院) means any building or part of a building which is designed for, and contains facilities (including a projection room) and projection or other apparatus or equipment for use in connection with or otherwise for the purposes of cinematographic displays; (L.N. 194 of 1996)

“class A site” (甲類地盤) means a site, not being a class B site or class C site, that abuts on one street not less than 4.5 m wide or on more than one such street; (L.N. 249 of 1979)

“class B site” (乙類地盤) means a corner site that abuts on 2 streets neither of which is less than 4.5 m wide; (L.N. 249 of 1979)

“class C site”(丙類地盤) means a corner site that abuts on 3 streets none of which is less than 4.5 m wide; (L.N. 249 of 1979)

“detached building”(獨立建築物) means any building which is not connected to any other building and has a clear and unobstructed open space-

(a) extending the entire depth of the building of not less than 2.3 m measured at right angles to the external surface of the building; (L.N. 294 of 1976)

(b) in the rear of the building of a depth of 2.3 m measured at right angles to the external surface of the building and extending for the full width of the site; (L.N. 294 of 1976)

“disability”(殘疾), in relation to a person, means impairment in vision, hearing or locomotion because of injury, disease or congenital deformity; (L.N. 239 of 1997)

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

“factory”(工廠) means any building or place in which any machinery, other than machinery worked entirely by hand, is used in aid of any industrial undertaking carried on in such building or place;

“floor”(樓面) means any structure forming the base of any storey and every joist, board, timber, brick, concrete or other substance connected with and forming part of such structure;

“latrine”(廁所) means a privy, commode or earth closet but does not include a water closet or a water flushed urinal;

“open air”(露天地方) means a space which-

(a) is vertically uncovered and unobstructed;

(b) is not less, in any horizontal dimension, than 1.5 m; and

(c) where such space is enclosed on 4 sides, has a horizontal area of not less than 1 m² for every 6 m of the mean height of the walls enclosing the space; (G.N.A. 83 of 1959; L.N. 294 of 1976)

“Ordinance”(本條例) means the Buildings Ordinance (Cap 123);

“permitted plot ratio”(准許地積比率) means the maximum plot ratio permitted under paragraph (1) or (2), as the case may be, of regulation 21; (G.N.A. 97 of 1962)

“prescribed”(訂明) means prescribed by or under the Ordinance; (G.N.A. 83 of 1959)

“road”(道路) means a street not including any footpath;

“room” (房間) means any portion of a building which has been subdivided by the erection of partition walls from floor to ceiling;

“semi-detached building” (半獨立建築物) means any one of a pair of buildings connected to each other by a party wall and has a clear and unobstructed open space-

(a) extending the entire depth of the building of not less than 2.3 m measured at right angles to the external surface of the building;

(b) in the rear of the building of a depth of 2.3 m measured at right angles to the external surface of the building and extending for the full width of the site; (L.N. 294 of 1976)

“site coverage” (上蓋面積) means the area of the site that is covered by the building that is erected thereon and, when used in relation to a part of a composite building, means the area of the site on which the building is erected that is covered by that part of the building; (G.N.A. 97 of 1962)

“storey” (樓層) means the space between the upper surface of every floor and the upper surface of the floor next above it where such a floor exists and in the case of a top storey the space between the upper surface of that floor and the mean height of the ceiling or roof;

“street” (街道) includes any footpath and private and public street;

“usable floor space” (實用樓面空間) means any floor space other than staircases, staircase halls, lift landings, the space used in providing water-closet fittings, urinals and lavatory basins and the space occupied by machinery for any lift, air-conditioning system or similar service; (G.N.A. 97 of 1962)

“verandah” (外廊) means any structure projecting from any wall of any building and supported by piers or columns.

(L.N. 194 of 1996; L.N. 239 of 1997)

(2) For the purposes of these regulations-

(a) a corner site shall not be regarded as abutting on 2 streets unless at least 40 per centum of the boundary of the site abuts on the streets; and

(b) a corner site shall not be regarded as abutting on 3 streets unless at least 60 per centum of the boundary of the site abuts on the streets. (G.N.A. 97 of 1962)

(73 of 1983 s. 3)

| | | | | | |
|-------------|------|----------|---|-----------------|------------|
| Chapter: | 123F | Title: | BUILDING (PLANNING) REGULATIONS | Gazette Number: | |
| Regulation: | 23 | Heading: | Provision supplementary to regulations 19, 20, 21 and 22 | Version Date: | 30/06/1997 |

(1) For the purposes of regulations 20, 21 and 22, the height of a building shall be measured from the mean level of the street or streets on which it fronts or abuts being a street or streets not less than 4.5 m wide, or where the building abuts on streets not less than 4.5 m wide having different levels, from the mean level of the lower or lowest of such streets, to the mean height of the roof over the highest usable floor space in the building. (L.N. 406 of 1987)

(2) In determining for the purposes of regulation 20, 21 or 22 the area of the site on which a building is erected-

- (a) no account shall be taken of any part of any street or service lane; and
- (b) there shall be included any area dedicated to the public for the purposes of passage.

(3) (a) Subject to sub-paragraph (b), for the purposes of regulations 19, 20, 21 and 22, the gross floor area of a building shall be the area contained within the external walls of the building measured at each floor level (including any floor below the level of the ground), together with the area of each balcony in the building, which shall be calculated from the overall dimensions of the balcony (including the thickness of the sides thereof), and the thickness of the external walls of the building.

- (b) In determining the gross floor area for the purposes of regulations 20, 21 and 22, the Building Authority may disregard any floor space that he is satisfied is constructed or intended to be used solely for parking motor vehicles, loading or unloading of motor vehicles or occupied solely by machinery or equipment for any lift, air-conditioning or heating system or any similar service. (L.N. 406 of 1987)

(4) For the purposes of regulations 19, 20, 21 and 22, the Building Authority may treat as a non-domestic building a composite building in which the only domestic part of the building is a place of residence, not having more than 50 m² of usable floor space, for a caretaker or other person employed in connection with the building or a service provided therefor or a residence comprising the top storey of the building, or both. (L.N. 294 of 1976)

(G.N.A. 97 of 1962; L.N. 54 of 1969)

| | | | | | |
|----------|------|----------|--|-----------------|------------|
| Chapter: | 123H | Title: | BUILDING (REFUSE STORAGE CHAMBERS AND CHUTES) REGULATIONS | Gazette Number: | |
| | | Heading: | Empowering section | Version Date: | 30/06/1997 |

(Cap 123 section 38)

[1 January 1985]

(L.N. 154 of 1984)

| | | | | | |
|-------------|----------|----------|--|-----------------|------------|
| Chapter: | 123H | Title: | BUILDING (REFUSE STORAGE CHAMBERS AND CHUTES) REGULATIONS | Gazette Number: | |
| Regulation: | 1 | Heading: | Citation | Version Date: | 30/06/1997 |

These regulations may be cited as the Building (Refuse Storage Chambers and Chutes) Regulations.

| | | | | | |
|-------------|------|----------|---|-----------------|------------------|
| Chapter: | 123H | Title: | BUILDING (REFUSE STORAGE CHAMBERS AND CHUTES) REGULATIONS | Gazette Number: | L.N. 320 of 1999 |
| Regulation: | 2 | Heading: | Interpretation | Version Date: | 01/01/2000 |

- In these regulations, unless the context otherwise requires-
- “aggregate usable floor space” (總實用樓面空間) in relation to a composite building means the aggregate of the usable floor space of the domestic building component of that composite building and one third of the usable floor space of the non-domestic building component of that composite building;
- “approved” (批准) means approved by the Building Authority;
- “church” (教堂) means a building constructed or intended to be used principally for the purpose of religious worship;
- “collection authority” (收集當局) means the Director of Food and Environmental Hygiene; (78 of 1999 s. 7)
- “external wall” (外牆) means an outer wall of a building not being a party wall, even though adjoining a wall of another building;
- “floor area” (樓面面積) means-
- in relation to a composite building, the aggregate usable floor space; or
 - in relation to any other building, the usable floor space;
- “foul water” (穢水) has the meaning assigned to it by the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations (Cap 123 sub. leg.);
- “hopper” (漏斗) means the fitment on a refuse chute into which refuse is placed and from which it is projected into the chute;
- “industrial building” (工業建築物) means-
- a godown; or
 - a building in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed;
- “open air” (露天地方) has the meaning assigned to it by the Building (Planning) Regulations (Cap 123 sub. leg.);
- “plan” (圖則) means a plan submitted to the Building Authority for approval under section 14 of the Ordinance;
- “refuse container” (垃圾桶) means a receptacle in which refuse is intended to be stored;
- “school” (學校) means a building constructed or intended to be used principally for the purpose of primary, secondary or tertiary education and includes a building used wholly for the provision of a day nursery, kindergarten, play group, play school or otherwise for the day-time care and education of children and a building used principally for other full-time education;
- “soil fitment” (便溺污水設備) has the meaning assigned to it by the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations (Cap 123 sub. leg.);
- “storage chamber” (垃圾房) means a chamber in which a refuse container is stored;
- “storage chamber with vehicular access” (設有車輛通道的垃圾房) means a storage chamber to which vehicular access is provided adequate for the ingress and egress of a refuse collection vehicle of a type customarily used by the collection authority;
- “usable floor space” (實用樓面空間) means any floor space other than staircases, staircase halls, lift landings, the space used in providing water closet fitments, urinals and lavatory basins and the space occupied by machinery for any lift, air-conditioning system or similar service.

| | | | | | |
|-------------|------|----------|---|-----------------|------------|
| Chapter: | 123H | Title: | BUILDING (REFUSE STORAGE CHAMBERS AND CHUTES) REGULATIONS | Gazette Number: | |
| Regulation: | 3 | Heading: | Storage chambers to be provided for in plans relating to buildings specified in the Schedule | Version Date: | 30/06/1997 |

(1) Every plan relating to a building of a description, or 2 or more buildings both or all of which are of the same description, specified in the first column of the Schedule with a total floor area specified opposite that description of building in the second column thereof shall show provision for a storage chamber of the description specified opposite that floor area in the third column and such storage chamber shall have a total floor space of not less than that specified opposite that storage chamber in the fourth column thereof.

(2) In the case of a plan relating to 2 or more buildings falling within 2 or more of the descriptions specified in the first column of the Schedule, paragraph (1) shall apply as if those buildings were comprised in a single composite building and the plan related to that composite building.

(3) This regulation shall not apply to a building constructed or adapted for use principally as a church, a school, an industrial building or a car park.

| | | | | | |
|-------------|------|----------|--|-----------------|------------|
| Chapter: | 123H | Title: | BUILDING (REFUSE STORAGE CHAMBERS AND CHUTES) REGULATIONS | Gazette Number: | |
| Regulation: | 4 | Heading: | Storage chambers to comply with regulations 5 to 12 | Version Date: | 30/06/1997 |

Expanded Cross Reference:

5,6,7,8,9,10,11,12

Where a storage chamber is provided in any building it shall be so designed as to comply with the requirements of regulations 5 to 12.

| | | | | | |
|-------------|------|----------|--|-----------------|------------|
| Chapter: | 123H | Title: | BUILDING (REFUSE STORAGE CHAMBERS AND CHUTES) REGULATIONS | Gazette Number: | |
| Regulation: | 5 | Heading: | Access to storage chambers for emptying refuse containers | Version Date: | 30/06/1997 |

(1) Every storage chamber shall be of a design approved by the Building Authority and in such location approved by the Building Authority as to provide ready access thereto for the purpose of removing any refuse container stored in such storage chamber.

(2) Where access to any storage chamber other than a storage chamber with vehicular access is obtained along a passage or alley or similar way, the passage, alley or other way shall be not less than 1.5 m in width, shall be without steps and paved and shall have a longitudinal gradient not greater than 1 in 20.

| | | | | | |
|-------------|------|----------|---|-----------------|------------|
| Chapter: | 123H | Title: | BUILDING (REFUSE STORAGE CHAMBERS AND CHUTES) REGULATIONS | Gazette Number: | |
| Regulation: | 6 | Heading: | Storage chambers to be fully enclosed save for door etc. | Version Date: | 30/06/1997 |

Save for the access door provided in accordance with regulation 10, the opening for any refuse chute and any opening for a hopper, there shall be no openings in any storage chamber.

| | | | | | |
|-------------|------|----------|--|-----------------|------------|
| Chapter: | 123H | Title: | BUILDING (REFUSE STORAGE CHAMBERS AND CHUTES) REGULATIONS | Gazette Number: | |
| Regulation: | 7 | Heading: | Storage chambers to have one external wall | Version Date: | 30/06/1997 |

Not less than one of the walls of every storage chamber shall be an external wall.

| | | | | | |
|-------------|----------|----------|--|-----------------|------------|
| Chapter: | 123H | Title: | BUILDING (REFUSE STORAGE CHAMBERS AND CHUTES) REGULATIONS | Gazette Number: | |
| Regulation: | 8 | Heading: | Minimum dimensions of storage chambers | Version Date: | 30/06/1997 |

-
- (1) No storage chamber shall have any dimension less than 1.5 m.
 - (2) The height, measured to the ceiling, of every storage chamber shall, throughout the chamber, be not less than 2 m.
-

| | | | | | |
|-------------|------|----------|--|-----------------|------------|
| Chapter: | 123H | Title: | BUILDING (REFUSE STORAGE CHAMBERS AND CHUTES) REGULATIONS | Gazette Number: | |
| Regulation: | 9 | Heading: | Construction of storage chambers | Version Date: | 30/06/1997 |

(1) Every storage chamber shall be constructed of brickwork, concrete or other approved material.

(2) The whole of the internal faces of the walls of every storage chamber shall be lined with glazed bricks, glazed tiles or other approved material.

(3) The ceiling of every storage chamber shall be rendered in cement and finished with a smooth surface.

(4) The floor of every storage chamber shall be-

- (a) constructed of concrete not less than 100 mm thick; (L.N. 439 of 1990)
- (b) laid to fall towards the gully provided in accordance with regulation 11;
and
- (c) finished with quarry tiles or other approved hard impervious material.

(5) In every storage chamber the junction of the floor with the walls shall be coved.

| | | | | | |
|-------------|-----------|----------|---|-----------------|------------|
| Chapter: | 123H | Title: | BUILDING (REFUSE STORAGE CHAMBERS AND CHUTES) REGULATIONS | Gazette Number: | |
| Regulation: | 10 | Heading: | Access door to storage chambers and construction thereof | Version Date: | 30/06/1997 |

-
- (1) Every storage chamber shall be provided with a close-fitting steel door.
 - (2) Every such door shall-
 - (a) be situated in an external wall of the storage chamber;
 - (b) have a height of not less than 1.8 m;
 - (c) have a width of not less than 1.25 m; and
 - (d) be provided with a lock or other means of preventing unauthorized persons obtaining access to the storage chamber.
 - (3) The internal surface of the door shall be without projections.
-

| | | | | | |
|-------------|------|----------|--|-----------------|------------|
| Chapter: | 123H | Title: | BUILDING (REFUSE STORAGE CHAMBERS AND CHUTES) REGULATIONS | Gazette Number: | |
| Regulation: | 11 | Heading: | Drainage of storage chambers | Version Date: | 30/06/1997 |

(1) Every storage chamber shall be provided, in the floor thereof, with an outlet drain.

(2) Every such drain shall be-

- (a) provided with a grating; and
- (b) connected, by means of a pipe having an internal diameter of not less than 100 mm, to a back inlet trapped gully.

(3) Every such gully shall be-

- (a) situated in a position immediately outside the storage chamber;
 - (b) fitted with an airtight cover to provide access to the gully for inspection and cleaning; and
 - (c) connected to a drain provided for the carriage of foul water.
-

| | | | | | |
|-------------|-----------|----------|--|-----------------|------------|
| Chapter: | 123H | Title: | BUILDING (REFUSE STORAGE CHAMBERS AND CHUTES) REGULATIONS | Gazette Number: | |
| Regulation: | 12 | Heading: | Storage chambers to have water supply point | Version Date: | 30/06/1997 |

(1) For the purpose of cleaning the same, there shall be provided, in every storage chamber, a water supply point.

(2) Such water supply point shall be connected to the supply of water provided for flushing the soil fitments in the building for which the storage chamber is provided.

| | | | | | |
|-------------|-----------|----------|--|-----------------|------------|
| Chapter: | 123H | Title: | BUILDING (REFUSE STORAGE CHAMBERS AND CHUTES) REGULATIONS | Gazette Number: | |
| Regulation: | 13 | Heading: | Refuse chutes to comply with regulations 14 to 25 | Version Date: | 30/06/1997 |

Expanded Cross Reference:

14,15,16,17,18,19,20,21,22,23,24,25

Where a refuse chute is provided in any building it shall be so designed as to-

- (a) be vertical save as provided in regulation 14;
- (b) terminate at its lower level in a storage chamber; and
- (c) comply with the requirements of regulations 14 to 25.

| | | | | | |
|-------------|------|----------|---|-----------------|------------|
| Chapter: | 123H | Title: | BUILDING (REFUSE STORAGE CHAMBERS AND CHUTES) REGULATIONS | Gazette Number: | |
| Regulation: | | Heading: | SCHEDULE | Version Date: | 30/06/1997 |

[regulation 3]

| Description of building | Total floor area as shown on plan | Description of storage chamber | Minimum floor space of storage chamber |
|-------------------------|---|---------------------------------------|---|
| Domestic Building | (a) Usable floor space 1320 m ² or more but less than 13200 m ² | Storage chamber | Total usable floor space in m ² divided by 440 |
| | (b) Usable floor space 13200 m ² or more | Storage chamber with vehicular access | Total usable floor space in m ² divided by 440 |
| Non-domestic Building | (a) Usable floor space 3960 m ² or more but less than 39600 m ² | Storage chamber | Total usable floor space in m ² divided by 1320 |
| | (b) Usable floor space 39600 m ² or more | Storage chamber with vehicular access | Total usable floor space in m ² divided by 1320 |
| Composite Building | (a) Aggregate usable floor space 1320 m ² or more but less than 13200 m ² | Storage chamber | Aggregate of- (a) the total usable floor space of the domestic building component in m ² divided by 440; and (b) the total usable floor space of the non-domestic building component in m ² divided by 1320 |
| | (b) Aggregate usable floor space 13200 m ² or more | Storage chamber with vehicular access | Aggregate of- (a) the total usable floor space of the domestic building component in m ² divided by 440; and (b) the total usable floor space of the non-domestic building component in m ² divided by 1320 |