

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 name in Person \$4,080 each list of the authorized persons' register or applying for in the structural engineers' register. inclusion in register.
- (ii) For each inclusion of name in each list of the Successful \$420 authorized persons' register or in the applicant structural engineers' register. seeking inclusion in register.
- (b) For each application for retention of name in Authorized \$815 for each list of the authorized persons' register person or retention for or in the structural engineers' register. registered a period of structural 12 months. engineer seeking retention in register.
- (c) For each application for restoration of name in Person seeking \$640". each list of the authorized persons' register restoration to or in the structural engineers' register. register.

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 | Minimum floor space of material recovery chamber/refuse storage and material recovery | Total chamber chamber |
|--------------------------------------|---|---|---------------------------------|
| Domestic usable floor space Building | (a) Usable floor space 1 320 m ² or more but less than 13 200 m ² | Refuse storage and material recovery chamber | Total material recovery chamber |
| | (b) Usable floor space 13 200 m ² or more chamber with vehicular access | Refuse storage and material recovery chamber | Total material recovery chamber |
| Non-domestic Building | (a) Usable floor space Total usable floor space 3 960 m ² or more in m ² divided by 925 | Refuse storage and material recovery chamber | Total material recovery chamber |
| (except Industrial Building) | (b) Usable floor space Total usable floor space 39 600 m ² or more chamber with vehicular | Refuse storage and material recovery chamber | Total material recovery chamber |

access

Industrial (a) Usable floor space Material recovery
 Total usable floor space
 Building 3 960 m² or more chamber in m² divided
 by 2 320
 but less than but not less than
 39 600 m² 2.25 m²

(b) Usable floor space Material recovery chamber
 Total usable floor space
 39 600 m² or more with vehicular access in m² divided by 2 320

Composite (a) Aggregate usable Refuse storage and
 Aggregate of---
 Building floor space 1 320 m² material recovery
 (a) the total usable chamber floor space of
 or more but less than 13 200 m² domestic building
 the component in m² divided by 347;
 and
 (b) the total usable floor space of
 the non-domestic building component in m² divided by 925

(b) Aggregate usable Refuse storage and
 Aggregate of---
 floor space material recovery (a) the total usable
 13 200 m² or more chamber with vehicular floor space of
 the
 access 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.