

Bills Committee on Buildings (Amendment) Bill 2003

**Summary of concerns/views raised by organizations
and Administration's responses
(as at 5 January 2004)**

	Subject/Clause	Organization /individual	Concern/View	Administration's responses
1	Introduction of a new minor works (MW) control regime Clause 2(f) Section 2(1) Clause 11 (b) Proposed section 8A(2A) and (2B)	Mr B W CHOY	Have reservation over the proposal on the grounds that it is dangerous to allow the undertaking of minor works (MW) without the approval of the building plans by the Building Authority (BA).	Under the proposed MW control regime, there would be different supervision requirements for different types of works depending on their nature, scale, complexity and structural implications. There are controls on the registration of MW contractors, statutory provisions on safety procedures, disciplinary proceedings and sanctions. (Please also refer to LC Paper No. CB(1) 2283/02-03(03).)
2		HKIA HKIH HKCA HKIS HKIE HKAPMC LSHK	Support the proposal to facilitate more self-regulation and better control of building works.	We are encouraged to note the support for the proposal.

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3		HKIA	The Housing, Planning and Lands Bureau should coordinate the existing administrative procedures of the concerned departments for effective implementation of proposal.	Given their nature, we envisage that with the overwhelming majority of MW, it should not be necessary to seek the approval or comment from Government departments. A central processing system is, therefore, unnecessary. Nonetheless, the Buildings Department (BD) and other relevant departments stand ready to assist should there be any questions in implementing the MW system.
4		HKAPMC HKIH HKIE REDA HKCA HKEMMPA FHKEMITU HKMGMA HKCSA HKMGMA	<p>Clear definition and categorization of MW, preferably with examples, should be provided in the law.</p> <p>Concern that small-scale renovation works the regulation of which has not been enforced under the existing BO will fall under the MW control regime.</p> <p>The MW control regime should specify the trades, scope, extent and categories of works to be regulated.</p> <p>MW should be categorized according to their implications on structural safety of the buildings and public safety.</p>	<p>We have sought to –</p> <ul style="list-style-type: none"> • spell out in the Bill the guiding principles that should be taken into account in designating MW – their nature, scale, complexity, structural implications and degree of risk; • provide for the exhaustive list of MW to be published (and updated from time to time) by notice in the gazette; and • set out in the Bill the regulatory requirements for different categories of MW. <p>This approach is aimed at striking a balance among the needs for-</p> <ul style="list-style-type: none"> • clarity of principles; • certainty regarding the types of works covered; and • flexibility for designating individual MW items to take into account changing circumstances. <p>We are encouraged to note that the explanation in LC Paper No. CB(1) 2292/02-03(01) and the Administration's further briefing for the organizations on 18.9.2003 have</p>

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				<p>increased the understanding of many of the organizations regarding the workings of the MW system under the Bill.</p> <p>The Buildings Ordinance (BO) governs all building works including renovation works. However, the degree of control varies according to the nature, scale, complexity and the structural implications of and the risk likely to be incurred by the building works. In accordance with section 8A(2A) (Clause 11(b)), the BA will specify the types of building works that are regarded as MW and will classify them into different categories. On the other hand, very small-scale building works that are unlikely to pose much safety concern will be exempted from such control as the approval of plans and the appointment of authorized persons and registered contractors.</p> <p>In general, most renovation works fall within the exempted category if they satisfy the criteria set out in the new section 41(3AA)(a), i.e. they are to be carried out inside an existing building; do not alter the structural elements of any building; and do not bear any load other than that due to their own weight. However, some renovation works involving greater complexity may pose higher safety concern and, therefore, will be specified as MW. For example, we propose to specify the erection or alteration of stone wall panels exceeding a size of 0.25m² inside a building and at a height of more than 3m from the floor as MW. In other words, erection or alteration of stone wall panels, irrespective of size, at a height of less than 3m from the floor will still be exempted works under</p>

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				<p>section 41(3AA) (a).</p> <p>Regarding the categorization of MW, paragraphs 4 & 5 of LC Paper No. CB(1) 2292/02-03(01) are relevant.</p>
5		HKIS	<p>No need to categorize MW by law.</p> <p>What constitutes MW has not been clearly defined. The examples of MW provided in LC Paper No. CB(1) 2292/02-03(01) do not give a clear conceptual direction. Some frameworks or parameters setting out the nature, scale and complexity for MW would be necessary.</p> <p>MW should be categorized according to their implications on the design and structural safety of the building. MW with implications on the basic design parameters and structural safety of the building could be designed and supervised by the AP/RSE.</p>	<p>We appreciate the proposal to provide BA with maximum flexibility and discretion in designating and controlling MW. However, for the reasons set out in item 4 above, we consider that the current approach is appropriate. The approach adopted in the Bill for the BA to designate MW by notice in the gazette follows that for specialized works under the existing BO.</p> <p>At the Administration's meeting with the organizations on 18.9.03, HKIS also commented that the term MW should be defined, and the power for the BA to designate MW by notice in the gazette should be provided for, in section 2 of BO instead of in the new section 8A(2A) (Clause 11(b) of the Bill). The Administration considers that this is essentially a matter of drafting.</p> <p>Generally agreed. Paragraphs 4 & 5 of LC Paper No. CB(1) 2292/02-03(01) are relevant. MW are categorized according to the design and structural implications on the building in descending order from Cat. I to Cat. III. Cat. I MW would have the greatest implications and require the appointment of AP/RSE.</p>

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			<p>Prior notification to the BA for carrying out MW should be required in addition to submission of certification of completion (Clause 62, proposed Regulation 25 of Building (Administration) Regulations). Undertaking from building owners for carrying out the works in compliance with building regulations is necessary.</p>	<p>Under the new regulation 20 of Building (Administration) Regulations (B(A)R) (Clause 58), notification to the BA for carrying out Cat I & II MW should be made before commencement of the works. Given the nature and scale of Cat. III MW, we consider that no prior notification is necessary. However, except for the removal of unauthorized building works (UBWs), the submission of a certificate of completion is required for all MW.</p> <p>We consider that it is not necessary to require a declaration from the person commissioning MW. He should be able to rely on the professional knowledge and input of the AP/RSE/registered contractor (RC) appointed to ensure that the works are in compliance with the relevant building regulations.</p>
6		HKIS	<p>All MW should be subject to prior notification to the BA in addition to the certification.</p> <p>The classification of MW contractor should not be determined by the scale of the works.</p>	<p>Please see item 5.</p> <p>Given that the level of professional input required will vary with the different MW categories, it is reasonable to classify MW contractors by their level of experience and qualification.</p>

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7		HKIS	<p>It is contradicting in-principle to allow a registered MW contractor with lower standard to carry out the Cat. III minor works on his own without supervision of a building professional or notification to the BA before the commencement of the works as compared to other categories of MW.</p> <p>The drainage works under Cat. III MW are confused with those exempted drainage works under BO s.41(3A)</p>	<p>Cat. III MW are building works which are very minor and simple in nature, scale, complexity, structural implication and degree of risk as compared with other categories of MW. We consider it reasonable to allow a contractor duly registered under the BO, thus having satisfied the BA of, inter alia, his technical competence to carry out the works without supervision by an AP/RSE or prior notification. He will still be bound by other requirements of the BO, e.g., those regarding safety procedures and disciplinary actions.</p> <p>The principle that building works which are designated as MW will not be exempted works is reflected in the new section 41(3AA) of BO (Clause 40(a)). In view of the SARS outbreak and the resultant concern at the need for more control on drainage works, we believe that there is a case for designating some drainage works, which are exempted works at present, as MW. Once so designated, these drainage works will no longer fall under the exemption of the new section 41(3A) of BO (Clause 40(b)). We will propose the necessary amendments to the Bill in due course.</p>

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8		HKIS	<p>With reference to existing classification of contractor, minor works contractors (MWC) could be further classified as MWC(general), MWC(drainage), MWC(demolition), MWC(signboard) etc.</p> <p>Introduction of registered architect, registered professional engineer and registered professional surveyor into minor works control regime.</p>	<p>The possibility of further specifying the type of MW that a registered contractor may undertake is provided for in Clause 12(g). We will take into account the HKIS's suggested approach.</p> <p>Registered architects, registered professional engineers and registered professional surveyors do not play a statutory role under the BO but they can still participate in the MW control regime in the capacity of AP or RSE.</p>
9		HKCA HKGBCA HKMGMA	The Administration should consult the construction industry on the details of categorization of MW.	<p>Paragraphs 4 & 5 of LC Paper No. CB(1) 2292/02-03(01) are relevant.</p> <p>We have consulted the construction industry in drawing up the details of the MW control regime, including the categorization of MW. We will consult the industry again before the schedule of MW is finalized and published.</p>

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10		HKCSA	The Administration should consult affected parties including construction contractors and sub-contractors, companies for renovation works, building material supplies companies, and building owners, on the proposed MW control regime.	<p>During the formulation of the proposed minor works control regime, we have consulted the construction industry and other contractors' associations. In addition, BD organized two seminars for the trade unions of construction workers and associations of small contractors as well as two open seminars for the public in October 2003 to explain the proposed minor works control regime, including the procedural requirements, the different categories of minor works and the registration requirements of minor works contractors. We shall consult these organizations again before the Schedule of MW is finalized and published.</p> <p>Moreover, before the new minor works control regime is implemented, BD will launch a series of publicity programmes to introduce the new system to all building owners. BD will hold media briefings and organize seminars for Owners' Corporations and building management companies et al. An enquiry service will be set up so that the public may consult BD staff in case they have any questions on the new system. In addition, seminars will be held for building professionals and registered contractors to familiarize them with the new system.</p>
11		HKAPMC	Consideration should be given to requiring maintenance and removal of MW erected after a certain period of time.	It is the duty of all building owners to ensure their buildings or building works are under proper maintenance. This will not change after the introduction of the MW system.

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12		HKEMMPA FHKEMITU	Suggest to exempt the erection of metal supporting frame for air-conditioning unit (not exceeding 600 mm from the external wall) from regulation under the BO.	Since the metal supporting frames for air-conditioning units are external projections that may affect public safety, it is considered necessary to put them under the minor works control regime.
13		HKMGMA	Suggest to allow a three-year transitional period before the MW control regime is put into effect.	As the proposed minor works control regime simplifies the current overly stringent procedures for carrying out minor works, we consider that the regime should be put in place as soon as possible and a transitional period is not appropriate. The new control regime should be implemented as early as possible to provide building owners with a simple and legal channel for carrying out minor works. However, contractors have to be registered before they can carry out minor works. For MW contractors who have the experience in minor works but do not possess the academic qualification required for registration as RMWC, we will provide top-up courses for them. Details of the registration requirements and top-up courses are set out in LC Paper No. CB(1)2292/02-03(01) and CB(1)237/03-04(02). In order that competent contractors can be registered for carrying out minor works as soon as the new regime is implemented, we are reviewing the feasibility of provisional registration. Please refer to the Paper on Minor Works Control Regime (Part III) for details of the proposed provisional registration.

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14	Registration of minor works contractors (MWC) Clauses 11 to 15 Sections 8A, 8B, 8BA, 8C and 8D	HKCA HKIH REDA	Support the registration of MWC	We welcome the support for the proposal.
15		HKIS	There should be clear classification of MWC and they should be identified by specialization. The qualifications of registered MWC should include technical competency.	Basically, the requirement for Class A RMWC is higher than that for Class B RMWC. The tentative requirements are set out in paragraphs 9, 10 and Annex B of LC Paper No. CB(1) 2292/02-03(01). We are now finalizing the qualification and experience details, and will consult the industry before implementation.
16		HKIE HKEMMPA FHKEMITU	The engineering profession should be consulted on the qualification and procedures for registration as MWC.	The industry, including the engineering profession and the construction sector, has been consulted on the principles for setting the qualification requirements. It will be further consulted on the technical and administrative issues related to the registration of RMWC.
17		HKCA HKGBCA	The construction industry should be consulted on the qualification and requirements for registration as MWC.	Please see items 15 & 16.

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18		HKGBCA	A representative from HKGBCA should sit on the Contractor Registration Committee to consider applications for Class A Registered Minor Works Contractors (RMWC) (Clause 10, section 8(3B)) .	Depending on the expertise required, BA may appoint any suitable person, including a representative from HKGBCA, in the Contractors Registration Committee to interview the applicant for contractor registration under the new section 8(3B)(a) of BO (Clause 10(c)).
19		HKIH	Apart from registration of MWC, there should be registration of buildings in phases.	HKIH clarified via their letter dated 6.10.2003 to BD that their comment should be “registration of building workers”. In this connection, the Environment, Transport and Works Bureau submitted a Construction Workers Registration Bill to the LegCo in March 2003 for the registration of construction workers.
20		HKMGMA HKCSA	Suggest to reduce licence fees and registration fees to relieve financial burden of the construction industry. Suggest to pitch registration fees and top-up course fees at a low level	The proposed registration fees for RMWC are set out in Regulation 42 of the Building (Administration) Regulations (Clause 74(j)). These fees are set according to the ‘user pays’ principle and only recover the cost of processing the applications for registration, including the vetting of documentary evidence of qualification and experience and arrangement for interviews of the applicants by the Contractors Registration Committee. The fees of top-up courses are set by the course providers, namely the Construction Industry Training Authority and Vocational Training Council, also based on the principles of ‘user pays’ and “full-cost recovery”. We are mindful of the financial burden that may be imposed on the applicants and have tried our best to set the fees at a reasonable and acceptable level.

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21	Control of advertisement signboards Clause 2 Section 2(1) Clause 78 Regulation 10A in Building (Planning) Regulations (B(P)R)	Mr B W CHOY	Doubtful whether an advertisement structure can be classified as a MW without the structure being first declared as a building.	A clear definition of signboard is provided in Clause 2(f). Whether a signboard is a type of MW will depend on its size and location. (Please also refer to LC Paper No. CB(1) 2283/02-03(03)).
22		HKIS	No objection to deem signboards as building works. The proposed enforcement framework differentiating whether the unauthorized building works (UBWs) have or have not been completed will not be effective in controlling signboards. It will be unfair to require building owners to remove signboards which are not erected by them in the first place.	At present, under section 24(2) of BO, a removal order is to be served on the owner of the UBW. If the UBW is a signboard, currently we look for the person for whom the signboard is erected, the person collecting rent for the signboard or the owner of the premises on which the signboard is erected as the owner of the signboard. In Clause 29 of the Bill we propose to state clearly in the new section 24(2)(c) of BO that a removal order against an unauthorized signboard is to be served on one of these persons. By going after the person who has put up the signboard or who is collecting rent for the signboard in the first instance, we already recognize the fact that in some cases the present owner of the external wall on which the signboard is erected may not have caused it to be erected. However, as with other UBWs, we consider it unreasonable to completely absolve the owner of the property of his responsibility. The underlying principle is the same for all UBWs, i.e., that the owner of a building should have the ultimate responsibility for the safety of his building and to ensure that no UBWs are erected in or on

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				his building.
23		REDA	No objection to control signboards but it is difficult to draw a line between "owner" and "occupier", and "land" and "premises".	The control of signboards, particularly as to who should be responsible for the removal of unauthorized signboards, is mainly covered under the new section 24(2)(c) of BO (Clause 29(b)). This provision does not involve the "occupier". The 'land' and 'premises' referred to in this provision is the land or the building on which the signboard has been erected.
24		CWDC	The Bill should include provisions governing light emission from signboards, and structural safety of and light emission from electronic display boards.	<p>The Bill has provisions to improve the control of structural safety of signboards, e.g., Clauses 2(f), 22 and 78.</p> <p>Occulting signs are regulated under a number of ordinances including the Road Traffic Ordinance, Public Lighting Ordinance, Shipping and Port Control Ordinance and the Hong Kong Airport (Control of Obstructions) Ordinance. Given the BO's primary objective of ensuring the structural safety of buildings and building works, it is inappropriate to regulate light emission from signboards through the BO.</p> <p>(Please also refer to LC Paper No. CB(1) 2283/02-03(04))</p>

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25		HKAPMC	Suggest to introduce a signboard registration system to help identify owners and ensure safety of signboards.	<p>The control measures on signboards to achieve the primary objective of ensuring public safety are further strengthened by the Bill, e.g., through Clauses 2(f), 22, 29(b), 58 and 62. Depending on their size and location, all signboards, except the very small ones, will be subject to the building control regimes set out in the BO and will have to be designed, supervised, carried out and certified by AP/RSE/RC as appropriate.</p> <p>With the information on building works, including signboards, either submitted to the BA for approval or deposited with the BA for record in the case of MW, information on the person for whom the works are to be carried out will be available.</p> <p>Please also see item 22.</p>
		HKEMMPA FHKEMITU	Clear guidelines explaining the proposed regulation on signboards should be provided to facilitate compliance by the trade.	Agreed.

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26	Uncooperative owners Clause 38 Proposed section 39B	HKAPMC	Support the proposal to prosecute owners who obstruct their Owners' Corporation (OC) in complying with BA's orders. Suggest that the same be applied to owners who obstruct property management company.	By virtue of the Buildings Management Ordinance (Cap. 344), liabilities of the owners in relation to the common parts of the building shall be enforceable against the OC and thus BD can only serve orders relating to the common parts of building on the OC, if there is one for that building. The proposal in the Bill specifies that an owner who obstructs a person, or refuses access of a person employed or engaged by the OC in carrying out any works for the purpose of complying with the order would commit an offence. The management company of a building is an agent employed or engaged by the OC and therefore it can work hand in hand with the OC to take necessary action against those uncooperative owners. If there is no OC, BD will issue orders on all owners for works relating to the common parts of the building. In case of failure of compliance, BD can prosecute individual owners under existing provisions of the BO. The concern at obstruction to the management company can be addressed in both scenarios.

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27		HKIS	The proposal is inappropriate as it gives OC privilege. The existing section 40(2AAA) of the BO is adequate in that it is an offence for anyone who obstructs the BA in the exercise of his power.	<p>Please see item 26 above. Moreover, we consider that although an order in relation to the common parts of a building is issued to the OC, the ultimate responsibility to comply with the order should rest with all the individual owners. Thus, if an OC cannot comply with an order because of obstruction by an individual owner, it is reasonable that action may be taken against that owner.</p> <p>Once an order is served on an OC, the OC is responsible for complying with the order. It would be inappropriate to equate the OC or any other person with the BA under section 40(2AAA) of BO. To do so would cause considerable confusion.</p>
28	Warning notice (WN) on UBWs Clause 30 Proposed section 24C	AAP	Have reservation over registering WN on UBWs in the Land Registry (LR), which will practically freeze transaction of the property. Non-compliance with removal orders may at times beyond the owners' control.	The registration of warning notices in the Land Registry serves to deter erection of UBWs and to motivate owners to remove UBWs voluntarily. It will also make potential purchasers more easily aware of the existence of the UBWs. It is not necessarily a legal hurdle to the transaction of the property. It is up to the purchaser to decide whether to buy the property in view of the presence of the UBW.
29		HKIH HKIREA	Support the proposal in principle. Owners should be given sufficient notice before registering WN in the LR.	<p>We welcome the support for the proposal.</p> <p>Under the new section 24C(1)(d) of BO (Clause 30), the WN will specify a date after which the WN will be registered in the LR if the UBW is not removed. BD will also give sufficient notice to the owners administratively before the registration of the WN.</p>

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30		HKIH	WN should be issued upon request of OCs or property management companies.	If OCs or property management companies find any UBW, they may make a report to BD. BD would conduct investigation and follow up as appropriate, such as issuing orders or warning notices to the relevant owners.
31	Registration of geotechnical engineers (GE) Clause 43 Proposed sections 53H and 53I	Mr B W CHOY	Query the need to register GEs. The Administration should provide examples of failure of the present system to justify the proposal.	The proposal would recognize the statutory role of GEs, enable them to undertake the investigation, design and supervision of geotechnical works directly, and hold them legally responsible for the quality of their work, hence enhancing public safety. (Please also refer to LC Paper No. CB(1) 2283/02-03(03))
32		HKIA HKIS HKIE HKCA REDA AAP	Support the registration of GEs to rationalize the duties and responsibilities of the professionals engaging in highly specialized works.	We welcome the support for the proposal.
33		HKIE	The Administration has agreed with HKIE on the inclusion of grandfather provisions for registration as GE and the criteria for registration, namely certification of completion of site formation works for a prescribed number and nature of projects on the part of authorized persons (APs) and registered structural engineers (RSEs). However, the agreed criteria have not been clearly	Apart from the years of experience in site formation works (the new section 53I(2)(a)(i) of BO (Clause 43)) and the requirement of being AP in the list of engineers or RSE appointed for the relevant projects (the new section 53I(2)(a)(ii) of BO (Clause 43)), the other criteria for grandfathering AP/RSE as agreed is that the BA has to be satisfied with the competence of the AP/RSE with reference to the site formation works satisfactorily completed under the AP/RSE's supervision under the BO. The technical details in terms of the number, scale and complexity of such site formation projects required to justify the AP/RSE's competence in geotechnical works

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			stipulated in the Bill. Instead, BA is conferred with discretionary power to decide whether APs and RSEs have the appropriate experience and competence for registration. Proposed section 53I(2)(a)(i) should be revised and section 53I(2)(a)(iii) deleted.	<p>have also been worked out and agreed with HKIE. We intend to specify such technical details in a practice note for APs/RSEs as the considerations that the BA will take into account in determining whether an applicant's competence is satisfactory. We will consult the industry before the practice note is published and implemented.</p> <p>HKIE has requested us to consider publishing such technical details by notice in the gazette. We consider that as only APs/RSEs are involved, a practice note to APs/RSEs should be a simple and effective means to achieve the objective of notifying the parties concerned.</p>
34			The proposed Regulation 12(5) of Building (Administration) Regulations (Clause 52(c)) implies the requirement for the appointment of RGEs, in addition to RSEs, for all foundation works (regulation 8(1)(d)) and excavation works (regulation 8(1)(bc)) irrespective of their scale. The requirement will be a burden to the building industry.	<p>The new regulation 12 of B(A)R (Clause 52) specifies the division of responsibilities among the AP, RSE and RGE by reference to the prescribed plans and documents. We intend to elaborate such division of responsibilities with more technical details in a practice note to AP/RSE/RGE. We will consult the industry before the practice note is published and implemented.</p> <p>In respect of foundation works, an RGE is required to be appointed for the geotechnical reports required under regulation 8(1)(d) of B(A)R, e.g. geotechnical reports for foundation works in Scheduled Areas 2 & 4. An RGE is also required to supervise ground investigation works and prepare the ground investigation reports in accordance with the details specified in the current practice note on ground investigation.</p>

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			Suggest to delete reference to regulation 8(1)(d) in regulation 12(5) and to specify that signature of a RGE on building plans/documents for excavation depth not exceeding 4.5 m shall not be required.	<p>In respect of excavation works, regulation 8(1)(bc) of B(A)R stipulates that excavation and lateral support plans with supporting geotechnical reports should be submitted for BA's approval only if the BA so requires. The BA has issued a practice note to explain when such plans and documents are required to be submitted for approval, e.g. when the excavation depth exceeds 4.5m and length exceeds 5m. This will continue to be the case. Thus the appointment of an RGE is required only in the circumstances where excavation and lateral support plans are required to be submitted for approval.</p> <p>The above details together with other relevant technical details will be included in the practice note to be published by BA.</p>
35		REDA	Buildings Department (BD) should be advised to ensure that the private sector will not be loaded with bureaucratic burden because of the appointment of Registered Geotechnical Engineer (RGE).	<p>The introduction of RGE under the BO is to enhance public safety. The proposal will ensure that only suitably qualified and experienced geotechnical engineers (GE) may undertake the design and supervision of geotechnical works and, at the same time, make it possible for the GE to be legally held responsible for the quality of their works.</p> <p>In fact, although APs or RSEs are currently responsible for the geotechnical elements of their projects, in practice they usually seek specialist advice from a GE. Almost invariably a GE is appointed as a sub-consultant to the AP or RSE if geotechnical works are involved. We, therefore, do not expect that the proposal for the appointment of RGEs will result in higher construction</p>

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				<p>costs or longer duration of work.</p> <p>As the proposal will bring about a clearer division of legal responsibilities among AP, RSE and RGE for the works within their capability and know-how, it should not create a bureaucratic burden on the private sector.</p>
36	Registration/renewal of APs and RSEs Clause 4 Section 3(9B), (13)(c), (15)(b)	AAP	Support extending the registration/renewal period for APs and RSEs from one year to five years.	We welcome the support for the proposal.
37		HKIE	Question the proposed deletion of section 3(10) (Clause 4(s)) which provides for appeal against refusal of application or decision to defer consideration for registration/renewal.	<p>Sections 9A and 13A of BO, which were enacted in 1996, had superseded section 3(10) of BO. The deletion of section 3(10) of BO (Clause 4(s)) was inadvertently omitted during the amendment of the BO in 1996. We, therefore, propose to rectify the omission now.</p> <p>Sections 9A and 13A of BO provide that the appeal against the Registration Committee's decision and BA's decision respectively to refuse or defer an application for inclusion, renewal or restoration in the AP or RSE register should be made to a judge of the Court of First Instance.</p>

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38	Registration/renewal of registered general building contractors (RGBCs) and registered specialist contractors (RSCs) Clause 12 Section 8B(12)	HKCA HKGBCA	Suggest to extend the registration/renewal period for RGBCs and RSCs from three years to five years.	Unlike AP and RSE, most of the current registered contractors are corporations and their management structure may change from time to time. Moreover, there is no independent institution to govern the continued competence of a contractor. Therefore, a registration/renewal period of 3 years for RGBC/RSC is considered appropriate to enable us to review the competence of a contractor at reasonable intervals.
39	Disciplinary proceedings for APs, RSEs, and RGEs Clause 9 Section 7(2C)	AAP HKIA	Object the proposed section 7(2C) which provides that the BA may bring to the notice of a disciplinary board matters in relation to supervision and carrying out of MW, which should fall within the responsibility of the Registered Contractors.	<p>In Clause 9(d), the new section 7(2C) of BO provides for matters in relation to MW which BA may bring to the notice of the disciplinary board under new section 7(2B) in relation to AP/RSE if BA considers the AP/RSE's conduct renders him unfit for certifying MW or further certification of MW by him will be prejudicial to the due administration of BO.</p> <p>In relation to such matters, the disciplinary board will have the option of sanction by prohibiting the AP/RSE from certifying MW only (the new section 7(2D)(b) of BO (Clause 9(d))). This will not affect his duty in relation to other building works.</p> <p>Similarly, the new section 13(2B) of BO (Clause 21(b)) intends to specify the matters relating to minor works which may be brought to the notice of a disciplinary board if the BA considers that the registered contractor's conduct renders him unfit for carrying out or certifying minor works or further carrying out or certification of minor works by him will be prejudicial to the due</p>

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				<p>administration of BO. :</p> <p>In relation to such matters, the disciplinary board will have an option of sanction by prohibiting the contractor from carrying out and certifying MW either permanently or for a period of time as the board thinks fit (the new section 13(4)(g) of BO (Clause 21(c))). Again this will not affect his duty in relation to other building works.</p> <p>Similar to the existing provisions of BO for building works in general, under the Bill, the new section 4(3A)(a) of BO (Clause 5(e)) provides for AP/RSE's responsibility to supervise the carrying out of MW, and the new section 9(6A)(a) of BO (Clause 18(f)) provides for the responsibility of the RC appointed to carry out the MW to provide continuous supervision of the carrying out of MW. Accordingly, despite the new section 7(2C) of BO (Clause 9(d)), the RC appointed to carry out the MW remains responsible for providing continuous supervision of the carrying out of MW, and such responsibility is not passed to the AP/RSE.</p>
40	<p>Increasing fines for offences</p> <p>Clause 39 Section 40</p>	HKAPMC	Consider the proposed increase of maximum fines for selected offences by four to six times of their current levels too high.	Please refer to the separate paper on Increasing Fines.

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41		HKIE	<p>Agree that the present level of fines should be reviewed.</p> <p>Have reservation over raising the fines from \$250,000 to \$1,500,000 (Clause 39(k)) for contravention of sections 4(3)(b), 9(5)(b) and 9(6)(b) of the BO concerning failure to notify the BA for non-compliance with building regulations. The penalty of three years' imprisonment should also be reviewed.</p>	<p>Noted.</p> <p>Please refer to the separate paper on Increasing Fines</p>
42			Section 32(2) relating to the naming of streets and numbering of buildings should be deleted. The penalty of six months' imprisonment should be removed (section 40(1C)(a)).	Please see the separate paper on Building Numbers. We propose to separately liaise with the Rating and Valuation Department, which is responsible for enforcing section 32(2) of BO, regarding the continued appropriateness of the imprisonment term.
43		HKCA	Strongly object the proposed increase in fines as the construction industry is undergoing its most difficult time. Increase in fines will deter small-sized contractors from registering as RMWC.	Please see the separate paper on Increasing Fines.

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44		HKGBCA	The proposed increase in fines is not in proportion with the current economic climate. The proposal will drive small-sized contractors out of the market resulting in monopoly by large contractors.	Please see the separate paper on Increasing Fines.
45		HKCSA HKMGMA	The proposed penalties for offences relating to minor works are too high. Separate penalties should be provided for offences relating to minor works.	We will propose amendments to the Bill in due course to provide for separate penalties at a lower level for offences relating to minor works.
46	Provision of building plans and related charges Clause 74 Regulation 42 of Building (Administration) Regulations	HKIH	<p>Welcome the proposal to provide non-certified copy of building plans and documents. Suggest to keep charges for the service to the minimum.</p> <p>The current charges for certified copies are too high and should be reviewed.</p>	<p>Generally agreed. The proposed charges are based on the user-pays and cost recovery principles with no revenue earning element.</p> <p>The current charges for certified copies have already been reviewed. The proposed new charges are specified in items 10 to 12 of the new regulation 42 of B(A)R (Clause 74(k)). There are downward adjustments in the fee levels for the certified copy of plans from \$350 (current) to as low as \$56 (proposed) (in electronic format) per copy. We are also introducing a new fee scale for non-certified copy of plans to provide more choice and lower prices for the customer.</p>

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47		HKIE	Inspection of building plans or documents (Clause 74 item 12) should be charged on the basis of per successful application in the range of \$100 to \$200 instead of per file.	The proposed charge for this item is based on the inspection of plans or documents kept in the same file. Different files of a development are regarded as the same file if they bear the same file reference number e.g. the case of Pt I, II etc. is considered as the same file. However, general building, structural and drainage files of the same development are considered as different files because the information contained in each of them is different. Files containing information of approved alteration and addition works carried out to the building after OP will not be counted separately. In case the address supplied by the applicant does not match BD's record, staff in the Building Information Centre of BD would help the applicant to identify the exact location. Only successful applications will be charged under such circumstances.
48			The current charge of \$1.5 per page for photocopying document should be maintained. The proposed fee of \$38 per page is too expensive (Clause 74 item 11).	The current charge of \$1.5 is the Government's standard charge of photocopying. This does not take into account the cost of retrieval of file records. Such cost is not charged at present as there is no legal provision for charging such cost. The proposed charge of \$38 is based on the user-pays and cost recovery principles and has taken into account the cost of retrieval of BD's records. We are now currently reviewing charges for bulk copying cases. Preliminary indications are that there is room for reduction.

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49		HKAPMC HKIH	The building plan viewing process should be speeded up. Basic information, e.g. occupation permit, loading capacity; use of land, and updated information of Licensing and addition and alteration works should be made available for public inspection.	BD at present already provides services for the public to view the plans (including approved A&A plans) and OPs of existing buildings. BD has pledged to make records available for viewing within 10 working days from the date of receipt of application. The performance target is set at 93%. The viewing process will be considerably speeded up with the planned digitization of building plans. We intend to roll out the program from July 2004. Licensing information in relation to population assessment may change from time to time frequently. At present, a prospective licence applicant may make enquiries with BD to ascertain if such information is available for his reference.
50	Provision of emergency vehicular access (EVA) Clause 79 Proposed Regulation 41D of Building (Planning) Regulations	HKIS	Support the statutory requirement of EVA for building developments where it is necessary and practicable. If existing EVA is available, application for exemption should not be required. Suggest to include a provision in section 16 for the BA to disapprove building plans where he is not satisfied with the provision of EVA.	Our intention is that a building fronting an existing (public or private) street which conforms to the standards of EVA to be stipulated in a code will be considered as complying with the new regulation 41D of B(P)R (Clause 79). If a site is fronting an existing street not conforming to the prescribed standards and has topographical constraints as mentioned in the new regulation 41D(3)(a) of B(P)R, BA may grant exemption under the new regulation. We intend to stipulate the detailed design and construction standards of EVA in a code and will consult the industry before finalizing it for publication and implementation. If the provision of EVA as shown in the submitted building plans is not up to the required standards, the proposal will be considered as having contravened the new regulation 41D of B(P)R and will be disapproved under section 16(1)(d) of BO. This is in line with the

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				current provisions for disapproving plans that do not comply with the requirements of any subsidiary regulations. The creation of a new subsection under section 16 of BO solely for EVA provision is, therefore, not required.
51		REDA	No objection to provision of EVA in principle. But provision of EVA may not be practicable in many situations. Need to review the proposed provision to avoid ambiguity.	Please see item 50.
52	Others	HKIA AAP	Details for implementing the Bill and administrative arrangements within the Government should be carefully worked out in consultation with the building professionals.	Agreed. The Administration has been consulting the building industry on the proposals in the Bill, and will continue to engage the industry in mapping out the technical and administrative arrangements.
53		AAP	Consider it necessary to conduct a comprehensive review of the BO.	The Bill is the result of a comprehensive review of the BO. We will continue to review the BO from time to time.

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54		HKIH	<p>BD should take charge of handling complaints on water seepage in collaboration with Water Supplies Department and Food and Environmental Hygiene Department.</p> <p>OC/property management companies should be allowed to apply for the Building Safety Loan Scheme (BSLS) on behalf of individual owners without obtaining their written consent for complying with building orders.</p>	<p>Water seepage is not entirely a matter of building safety. As set out in the Team Clean report, the Administration is exploring the feasibility of setting up a joint office with efficient and coordinated actions from the relevant Government departments to deal with water seepage cases. This issue will be pursued separately.</p> <p>The Home Affairs Bureau intends to amend the Building Management Ordinance to include, inter alia, a proposal to empower OCs to borrow from Government loan schemes for the purpose of complying with the statutory notices and orders which relate to the common parts of a building an amount equivalent to the costs which should be borne by the owners who fail or refuse to pay. Please refer to paragraphs 9 to 11 of the LC Paper No. CB(1) 2283/02-03(01) for details.</p>
55		HKEMMPA FHKEMITU	The coverage of the BSLS should be extended and more publicity should be made on the Scheme.	<p>The coverage of the BSLS is already quite wide. Please refer to paragraph 4 of the LC Paper No. CB(1) 2405/02-03(03) for details of the works eligible for loans application.</p> <p>The Administration has been actively publicizing the BSLS by, for example, publicity leaflets and advice to recipients of statutory orders issued under the BO. We will continue our effort.</p>

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56	Clause 26 Section 21(6)(da)	LSHK	Express doubt on the need of the proposed section to specify a ground on which the BA may refuse to issue a temporary occupation permits/occupation permits as such permits are not usually issued for amendment and alteration works.	Although we envisage that the majority of minor works will be amendment and alteration works, we should not rule out the possibility that in some cases they may result in a new building which requires an occupation permit. Hence the provision.
57	Clause 29 Section 24(2A)	LSHK	Suggest to review the drafting of proposed section 24(2A) to make clear that the provision applies to common parts of a development.	<p>Although it has much relevance to UBW on common parts of a building, the new section 24(2A) of BO (Clause 29(b)) does not apply to common parts only.</p> <p>We are not sure if adding such a phrase as “including the common parts...” to the new section 24(2A) of BO will necessarily make it clearer. Rather, it might raise questions as to whether similar references to land or premises in other sections of the BO include the common parts of a building.</p>

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58	Clause 40 Section 41	LSHK	When reading with proposed section 53J (Clause 43), it is unclear whether after enactment of the Bill there will be any exemptions of building works including MW from the BO.	After the commencement of the amendment Ordinance, there will still be a category of building works which are exempted from the new sections 4(1), 9(1) to (4D) and 14(1) of BO (Clauses 5(a), 18(a) to (c) and 22(a)) if it satisfies the criteria specified in the new section 41 (3AA) or (3A) of BO (Clause 40(a)). As some building works which would have been exempted works under the extant section 41(3) of BO would be designated as minor works, the new section 53J of BO (Clause 43) is intended to provide that if such exempted works have been completed or are being carried out at the commencement of the amendment Ordinance, they would continue to be treated as exempted works under the amended Ordinance.
59	Clause 62 Proposed Regulation 25 of Building (Administration) Regulations	LSHK	<p>The provision may trigger the requirement of certificates of non-existence of UBWs from architects which will delay sale of land and increase cost of property vendors.</p> <p>Have concern about possible requirement for registration of approved plans for individual blocks and units of a building development, in addition to registration of the master layout plan of the entire project..</p>	The requirement for a certificate of the completed building works from the AP, RSE and RC is not a new requirement. This is specified in the new regulation 25 of B(A)R (Clause 62). The new regulation 25 of B(A)R is to make it clear that such certificate in respect of minor works completed under the provisions of the amendment Ordinance does not require the signature of an AP/RSE (in case of Cat. II and Cat. III minor works which do not require the appointment of an AP/RSE), and should be accompanied by as-built plans (as approved plans are not required).

Document No. of submissions and the Administration's response

Name of organization/individual	Submission	Response
Mr B W CHOY	LC Paper No. CB(1)2156/02-03(05)	LC Paper No. CB(1)2283/02-03(03)
Central and Western District Council (CWDC)	LC Paper No. CB(1)2156/02-03(06)	LC Paper No. CB(1)2283/02-03(04)
The Hong Kong Construction Association Ltd. (HKCA)	LC Paper No. CB(1)2388/02-03(01)	LC Paper No. CB(1) 719/03-04(01)
The Hong Kong Institute of Surveyors (HKIS)	LC Paper No. CB(1)2388/02-03(02) LC Paper No. CB(1) 2444/02-03	Ditto
The Hong Kong Association of Property Management Companies Ltd. (HKAPMC)	LC Paper No. CB(1)2388/02-03(03)	Ditto
The Hong Kong Institute of Architects (HKIA)	LC Paper No. CB(1)2388/02-03(04)	Ditto
The Association of Architectural Practices Ltd. (AAP)	LC Paper No. CB(1)2388/02-03(05)	Ditto
The Hong Kong Institute of Housing (HKIH)	LC Paper No. CB(1)2388/02-03(06)	Ditto
The Hong Kong Institution of Engineers (HKIE)	LC Paper No. CB(1)2388/02-03(07)	Ditto
The Real Estate Developers Association of Hong Kong (REDA)	LC Paper No CB(1)2405/02-03(01)	Ditto
Hong Kong General Building Contractors Association Ltd (HKGBCA)	LC Paper No. CB(1)2405/02-03(02)	Ditto
Hong Kong Institute of Real Estate Administration (HKIREA)	LC Paper No. CB(1)2415/02-03(01)	Ditto

Name of organization/individual	Submission	Response
Hong Kong Electrical & Mechanical Management & Professional Association (HKEMMPA)	LC Paper No. CB(1)2415/02-03(02)	Ditto
The Federation of Hong Kong Electrical & Mechanical Industries Trade Unions (FHKEMITU)	LC Paper No. CB(1)2415/02-03(02)	Ditto
The Law Society of Hong Kong (LSHK)	LC Paper No. CB(1)2415/02-03(05)	Ditto
Hong Kong Marble & Granite Merchants Association (HKMGMA)	LC Paper No. CB(1)294/03-04	Ditto
Hong Kong Construction Sub-Contractors Association (HKCSA)	LC Paper No. CB(1)412/03-04	Ditto