

The Government of the Hong Kong Special Administrative Region

房屋及規劃地政局

香港花園道美利大廈



**Housing, Planning and Lands
Bureau**

Murray Building,
Garden Road, Hong Kong

本局檔號 Our Ref. HPLB(B) 30/30/102 Pt. 25

Tel. No.: 2848 6297

Fax No.: 2899 2916

來函檔號 Your Ref.

20 February 2004

[Fax : 2869 6794]

Clerk to Bills Committee
(Attn : Ms Odelia Leung)
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Ms Leung,

**Bills Committee on
Buildings (Amendment) Bill 2003**

At the Bills Committee meeting on 29 January 2004, Members raised a number of questions in relation to the proposed minor works control regime and exempted works. Our response to the questions are set out below.

Some Members requested the Administration to consider the feasibility of devising a simplified scheme concerning the submission of record plans for Category III minor works. Members suggested that for the erection of a supporting frame for an air-conditioning unit or a drying rack, different standardized options might be prescribed in a standardized form for easy completion by minor works contractors. Only where the minor works fall outside the prescribed options would the minor works contractors concerned be required to submit record photographs and record plans or written description of the completed minor works.

When the minor works control regime comes into operation, the Buildings Department (BD) will issue practice notes to the Registered Contractors (RC) providing technical guidelines on some common types of Category III minor works, for example supporting frames for air-conditioning units and drying racks. Some standard designs and construction details will be given in the guidelines. If an RC adopts a standard design in his works, in the records submitted upon completion of works to the Building Authority (BA), he may simply state the type of standard design adopted together with information on the location and size of the minor works completed. Record photographs of the completed works will not be required in relation to such standard designs. If a standard design is not adopted, the RC has to submit record photographs and either record plans or a written description of the completed works. In respect of the written description for a supporting frame for air-conditioning unit, BD has also consulted the workers' union of the air-conditioning trade and they have not expressed difficulty in producing such written description as the sample attached at Annex II to LC Paper No. CB(1)719/03-04(02).

Some Members asked the Administration to consider providing flexibility in respect of the required attendance rate for top-up courses and the need to pass the examinations for such course for registration as Class B minor works contractors. Members suggested that different options be provided to cater for the circumstances of different contractors. These options might include passing the required examination without the need to attend the top-up courses; attaining a prescribed attendance rate for the top-up courses and passing the required examination; and attaining a higher prescribed attendance rate for the top-up courses without the need to sit for the required examination.

The objective of the top-up courses is to enrich the technical knowledge and knowledge of the relevant statutory duties of those contractors who have not in the past attended an academic course and attained an ordinary certificate on the relevant subject. Under our original proposal, contractors enrolling in top-up courses for registration as Class A minor works contractors are not required to sit for examinations as they will be interviewed by a Contractors Registration Committee. For registration as Class B minor works contractors, no interview by a Contractors Registration Committee is required. However, contractors without the required academic qualification need to attain an attendance rate of 80% and pass an examination of the top-up courses. We consider that the passing of an examination without

attending the top-up course cannot achieve the intended objective of the courses and therefore do not propose to adopt this option.

To achieve the said objective, the providers of the top-up courses have proposed two options. They will issue a certificate provided that either the contractor have attained an attendance rate of 80% and have passed an examination, or the contractor have attained an attendance rate of 90% (i.e. no requirement of an examination). The course providers have advised that they can only adopt one of these two arrangements for the top-up courses because offering an option could cause confusion in the administration of the top-up courses and may also be unfair to attendees of other courses run by the same providers. In view of the concern that these Class B minor works contractors may lack the requisite examination skills, we propose to adopt the latter approach, i.e. 90% attendance rate and no examination. The providers have agreed that under this approach they will further provide flexibility for the contractors to attain the prescribed attendance rate of 90%. In case a contractor has achieved an attendance rate of 70% or above but falls short of the prescribed attendance rate of 90%, he can attend supplementary classes to make up for the remaining part of the prescribed attendance without paying additional course fees.

Some Members requested the Administration to advise on the qualifications for provisional registration as minor works contractors after consultation with the trade, including self-employed small minor works contractors. Members are concerned about the documentary evidence required to be produced to substantiate the claim of experience in minor works. They were worried that self-employed minor works contractors might not have business registration or receipts to prove that they have been engaged in minor works.

Under the proposed provisional registration for minor works contractors, the applicant is only required to have acquired adequate experience in the relevant type of minor works. The level of experience required will be the same as that for formal registration. We have set out the tentative level of experience required at Annex B to LC Paper No. CB(1)2292/02-03(01). We have since lowered the requirement slightly and have commenced consultation on this latest proposal with the building industry, including associations of small contractors and workers' trade associations, in December 2003. We have not received any adverse comments or objection to the proposal so far. The proposed level of experience required for provisional registration of Class A and Class B minor works contractors is set out at the **Annex**.

As the only requirement for provisional registration is demonstration of adequate experience, documentary evidence is crucial in substantiating the claim of experience. However, in view of the possible difficulty faced by existing minor works contractors, especially a self-employed contractor, in proving his experience, we are prepared to accept any document which can prove his experience in applying for the provisional registration as a Class B minor works contractor. These include receipts of payment for works completed, owner's endorsement, and certification from shops or companies for which the contractor has been providing service for the installation work, such as an electrical appliance shop selling air-conditioners. Records of previous business registration will not be required. We have consulted the workers' union of the air-conditioning trade and they did not expect much difficulty in producing the documentary evidence as mentioned above.

Some Members asked for advice on the channel of appeal concerning applications for provisional registration as minor works contractors. Members called for the provision of simple appeal procedures without the need to resort to legal proceedings.

As the proposed provisional registration of minor works contractors is only a transitional arrangement for 2 years, we agree that the appeal procedures should be simple. As applications for provisional registration will be considered by the BA without the involvement of the Contractors Registration Committee, his decision on such applications will be considered as his exercise of discretion under the Buildings Ordinance (BO). As such, we propose that an applicant dissatisfied with the BA's refusal of his application for provisional registration may appeal to the Appeal Tribunal under the extant section 44 of the BO.

Some Members requested the Administration to clarify whether a notice published in the Gazette concerning minor works and specified exempted works under the proposed section 8A(2A) and 41(3AA)(b) respectively was subsidiary legislation. Members were also concerned that publishing the notice in the Gazette was not an effective or user-friendly means to inform members of the public or interested persons about minor works and specified exempted works. Some members suggested setting out the details of these works in a schedule to the principal ordinance.

We are seeking legal advice on whether the relevant notice published in the Gazette is subsidiary legislation and will inform the Bills Committee as soon as possible. Nevertheless, BD will print pamphlets of and upload on its website the schedule of minor works and specified exempted works. An enquiry service will also be set up so that the public may consult BD in case they have questions on the new system. Thus, the public will be able to have easy access to the details of these works.

Some Members asked the Administration to review the drafting of the criteria for exempted works under the proposed section 41(3AA) to avoid ambiguity. Some members were concerned that the existing subsections 41(3AA)(a)(i) and (iii) were unclear. They pointed out that subsection 41(3AA)(a)(i) refers to the location of carrying out of works and not of the works themselves. Also, under the present drafting of subsection 41(3AA)(a)(iii), a layman would not be aware that aluminum windows in external walls have to bear wind load and thus are not exempted works.

The proposed section 41(3AA)(a)(i) is intended to refer to those building works which are located inside a building rather than the location at which the works are carried out. In order to avoid any misunderstanding, we propose to amend the provision to refer to building works which are situated wholly inside an existing building.

Windows constructed in the external wall of a building will bear wind load apart from their own weight and are not exempted works as they do not fall within the criteria under the proposed section 41(3AA)(a)(iii). For clarity, we propose to amend this subsection by replacing the term "any load" by "any dead load, wind load or imposed load".

I would be grateful if you will convey the above information to the Bills Committee Members.

Yours sincerely,



(Rick Chan)
for Secretary for Housing, Planning and Lands

c.c.	DB	(Attn : Mr C K Au)	[Fax : 2840 0451]
	D of J	(Attn : Mr K F Cheng/ Ms Selina Lau)	[Fax : 2845 2215]

**Requirements on Experience for Provisional Registration
as Registered Minor Works Contractors**

A person appointed to act for the contractor, i.e. the authorized signatory, is required to have the following experience:

Class A Registered Minor Works Contractor	
Academic Qualification of Authorized Signatory (AS)	Experience Required
AS possessing an ordinary certificate in building or construction technology	3 years' experience in the building industry, 1 year of which should be local experience involving 7 relevant local projects
AS without an ordinary certificate in building or construction technology	5 years' experience in the building industry, 1 year of which should be local experience involving 10 relevant local projects in which 2 of them must be completed within the 3 years preceding the date of application for registration

Class B Registered Minor Works Contractor	
Academic Qualification of Authorized Signatory (AS)	Experience Required
AS possessing an ordinary certificate in building or construction technology	1 year's local experience in the building industry involving 7 relevant local projects
AS without an ordinary certificate in building or construction technology	3 years' experience in the building industry, 1 year of which should be local experience involving 10 relevant local projects in which 2 of them must be completed within the 3 years preceding the date of application for registration