

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



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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**

In response to Members' questions at the Bills Committee meeting on 1 April 2004, we provide the requested information below.

Business registration of contractors

Members requested the Administration to clarify whether individuals who satisfy the specified requirements but without business registration could be registered as contractors and minor works contractors under the existing Buildings Ordinance (BO) and the Bill respectively.

Any individual or company is eligible for registration as a registered general building contractor (RGBC), a registered specialist contractor (RSC), or a registered minor works contractor (RMWC)

provided that he/she satisfies the specified requirements. If the application is made by a company, the Buildings Department (BD) will check its business registration to verify its identity. On the other hand, BD will check the Hong Kong identity card of applicants who are individuals.

Licensed plumbers

Members requested the Administration to confirm whether persons with a plumber's licence issued under Regulation 34 of the Waterworks Regulations (Cap. 102 sub. leg.) would be recognized as RMWC under the Bill and the types of minor works they would be permitted to undertake. The deputations claimed that persons with a plumber's licence would be qualified and should be permitted to undertake drainage works.

We have informed Members in LC Paper No. CB(1) 2292/02-03(01) (Minor Works Control Regime) that for registration as RMWC, the applicant should possess the required academic qualification and adequate experience in the relevant types of minor works. We have proposed the required academic qualification at Ordinary Certificate level or equivalent, and that an applicant without such qualification has to attend a top-up course organized by the Vocational Training Council (VTC) or the Construction Industry Training Authority (CITA).

Under the Waterworks Ordinance, a licensed plumber is a person licensed to construct, install, alter, repair, maintain or remove fire services or inside services, i.e. the water supply system. These works are not drainage works which are a type of minor works proposed in the Bill. As licensed plumbers are not licensed to carry out drainage works, BD would not automatically register a licensed plumber as an RMWC for drainage works. BD has, however, reviewed the qualification requirements of licensed plumbers and noted that a person can only register as a licensed plumber if he holds a Craft Certificate in Plumbing and Pipefitting issued by the VTC. BD has consulted VTC and confirmed that the content of the course leading to the Craft Certificate, apart from covering the water supply systems, has sufficient coverage on drainage works. In view of this, BD would accept this as adequate qualification and therefore a licensed plumber will not be required to possess any other qualification or to complete the top-up course before

applying for registration as an RMWC for drainage works. However, the applicant is still required to demonstrate that he has adequate working experience in drainage works, including management and supervision of such works. In addition, for registration as a Class A RMWC, the applicant has to attend an interview by the Contractors Registration Committee.

Interface with the Construction Workers Registration Bill

Members also asked how the proposed registration system for minor works contractors under the Bill could tie in with the mandatory registration system for construction workers under the Construction Workers Registration Bill.

The control regime under the BO aims at controlling the registered contractors and it is the responsibility of the registered contractors to organize, manage and supervise the works and to employ suitable workers to carry out the works. In future, these workers will have to be registered in accordance with the requirements stipulated in the Construction Workers Registration Bill, subject to its passage in Legco. The relevant Bill is being scrutinized by a Bills Committee.

Under the new minor works control regime, the primary control is that all minor works, irrespective of their category, should be carried out by qualified competent persons, i.e. RGBC, RSC of the relevant category and RMWC. However, having considered the views raised by the Minor Works Control Regime Concern Group that the majority of existing practitioners who undertake small-scale and simple minor works in the market are self-employed workers or contractors whose individual company comprises one person only, we propose to revise the arrangement as follows :

- (a) We will identify those items of minor works the carrying out of which, by virtue of their minor and simple nature, will principally involve a worker of the relevant trade only. These items of minor works will be specified as a separate category, proposed to be named as "Category IV minor works". Examples of such minor works are as follows –

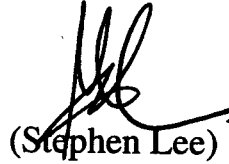
- (i) erection or alteration of architectural projection not involving concrete construction and projecting not more than 500 mm from the external wall;
 - (ii) erection or alteration of drying rack projecting not more than 750 mm from the external wall;
 - (iii) erection or alteration of metal supporting frame, projecting not more than 600 mm from the external wall, for air-conditioning units with a weight not more than 75 kg; and
 - (iv) alteration or addition of aboveground drainage works not involving embedded piping and communal piping.
- (b) The procedures for certifying completion of and submitting records for Category III minor works proposed in the Bill will similarly apply to Category IV minor works, except that category IV minor works may be carried out by any one of the following :
- (i) a RGBC;
 - (ii) a RSC of the relevant category;
 - (iii) a Class A RMWC;
 - (iv) a Class B RMWC; or
 - (v) a registered construction worker (RCW) of the relevant trade registered under the Construction Workers Registration Ordinance, who has attended a short course (1 day) on the statutory requirements and procedures for minor works under the BO.

Response to Submissions

As regards the comments/views expressed by the deputations that attended the meeting on 1 April 2004, our response is set out at Annex.

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

Yours sincerely,



(Stephen Lee)

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]

	Subject/ Clauses	Organization/ Individual	Concerns/Views	Administration's response
1		Concern Group on Minor Works Control Regime	<p>Provided that public safety will not be affected, lower the control requirements of some of the Minor Works (MW) (such as drainage works involving shallow excavation, formation of an opening with the area large enough for access by a person at internal floor slab or erection of light-weight canopy at the main entrance) that should be regulated at present, simplify the procedures, rationally commensurate the degree of control with the nature and scale of the works and encourage lawful carrying out of works which will result in reducing overall social costs.</p> <p>This legislative amendment would allow contractors with qualifications slightly below the present registration requirements but who are competent to be registered under a separate new register.</p>	<p>We thank the Concern Group on Minor Works Control Regime (CG) for their views on lowering the control requirements of MW which is exactly the objective of the Buildings (Amendment) Bill.</p> <p>The proposed Minor Works Control Regime simplifies the requisite procedures for carrying out MW that are at present overly stringent. Besides, it provides a simple and lawful channel for carrying out MW. When compared with other contractors registered under the Buildings Ordinance (BO), the registration requirements of MW contractors in terms of experience, academic qualifications and company structure are much more lenient and simple.</p> <p>The examples on MW given by the CG are exactly those that are proposed to be designated as MW.</p>

	Subject/ Clauses	Organization/ Individual	Concerns/Views	Administration's response
2		Concern Group on Minor Works Control Regime	Select those works with high accident occurrence frequency (such as removal of Unauthorized Building Works (UBW) and large-size structures attached to the external of a building) to be grouped under the new categories of MW for proper control. As for other UBW, existing practice with tolerant attitude should be adopted in dealing with each case flexibly.	<p>Under the proposed Minor Works Control Regime, different supervisory requirements are proposed according to the nature, scale, complexity, structural implications and degree of risk of the works in descending order as Category I to III. Although the accident occurrence rate can indicate the degree of risks involved, this is only one of the factors to be considered. Moreover, the examples on works given by CG are those that are proposed to be designated as MW.</p> <p>As regards the enforcement action against UBW, we must emphasize that the Buildings Department currently adopts a priority enforcement policy which mainly tackles UBW that are newly erected, that constitute imminent danger to the public, or pose a serious hazard or a serious environmental nuisance. Removal orders will be issued to the owners of such UBW. Although other UBWs would be subject to deferred enforcement action, this does not imply that they are legal. Buildings Department will not preclude any enforcement action to be taken in future. The Bill aims at providing building owners with simple and lawful procedures when carrying out MW so as to discourage proliferation of UBWs.</p>

	Subject/ Clauses	Organization/ Individual	Concerns/Views	Administration's response
3		Concern Group on Minor Works Control Regime	Some of the MW which pose less risk, involve simple skills and having less impact to the public are currently being carried out by non-registered contractors which are mostly small enterprises (with only the owner of the enterprise without permanent staff) or self-employed individuals. The qualifications of these contractors and individuals cannot meet the registration requirements but are competent in carrying out these works.	<p>The control system of BO is to monitor those contractors who carry out building works. These contractors have the responsibility to organize, manage and supervise building works and to employ suitable workers to carry out such works.</p> <p>The basic requirement for the proposed Minor Works Control Regime is that all MW, regardless of their categories, have to be carried out by qualified persons. According to the proposal in the Bill, the minimum requirements for these qualified persons must be registered minor works contractors. After considering the views given by the CG, we propose to revise the requirements of MW as follows :</p> <p>(1) We will identify those items of minor works, the carrying out of which, by virtue of minor and simple of their nature, will principally involve a worker of the relevant trade only. These items of minor works will be specified as Category IV minor works. We will stipulate that such minor works can be carried out not only by registered contractors but also registered construction workers of the relevant trades to be appointed by owners. Other statutory procedures for carrying out Category III minor works still apply to Category IV minor works.</p>

	Subject/ Clauses	Organization/ Individual	Concerns/Views	Administration's response
4		Concern Group on Minor Works Control Regime	<p>The current proposal introduced by the legislative amendment are obviously much different from what the industry understands. Without taking full consideration of the current operation of the market and the industry, adverse consequences could be expected, such as the ruling out of operations by small enterprises and self-employed individual leading to problems of unlicensed operations and insurance issues, etc.</p>	<p>The proposed registration requirements of the minor works contractors are much more lenient than those of the registered general building contractors and registered specialist contractors, in order to allow more smaller-scale but competent contractors to be registered and to minimize the impact on their making a living.</p> <p>Apart from setting out simple registration requirements, we will provide some measures to facilitate the existing contractors to carry out minor works during the transition when the new minor works control regime becomes effective.</p> <p>Top-up courses will be provided for those contractors who have the experience in minor works but do not possess the required academic qualification. The candidates are only required to attain a certain level of attendance rate without the need to take any examination for completion of the top-up course.</p> <p>When the new control regime comes into operation, we will also set up a provisional registration system to allow competent contractors to be registered provisionally for carrying out minor works so that they would have sufficient time to complete the top-up courses.</p> <p>As regards the carrying out of minor works by small enterprises or self-employed individual, we believe that the proposals in Item 3 should be able to address the concerns of the Concern Group.</p>

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				<p>With regard to the insurance aspect, we understand that the employer must take out a valid employees' compensation insurance policy for any employee to be hired for any work, regardless of whether the employer is a registered contractor or not. Therefore, the proposed minor works control regime will not affect or change the insurance requirements or arrangements.</p>
5		<p>Concern Group on Minor Works Control Regime</p>	<p>The consultation period was really too short this time. Most associations and trade unions attempted to understand the whole matter upon receiving the details after the second reading (at the end of 2003 to the beginning of 2004). It is not possible to reflect in time the effects of the legislative amendment to the industries and types of trades. Will the Legislative Council please postpone the scrutiny so that the comments of the industry can be considered thoroughly.</p>	<p>In February 2000, the Government set up a task force under the then Planning and Lands Bureau to formulate a comprehensive strategy for building safety and timely maintenance. One of the recommendations of the task force was the introduction of minor works (MW). From November 2000 to March 2001, the task force consulted widely the Legislative Council, the Lands and Building Advisory Committee, all District Councils, numerous professional and representative bodies. All the parties concerned raised no objection to the recommendations.</p> <p>In 2001, the Government set up a working group to formulate the details of the proposed Minor Works Control System, the minor works schedule and the preliminary proposal of the registration requirements of minor works contractors. Members of the working group included representatives from the Buildings Department, relevant professional bodies and Hong Kong Construction Association. During the interim, Government also consulted the building industry and other contractor associations on various occasions. The Government published in the Gazette the Buildings (Amendment) Bill 2003 (with its content including the basic principles and the relevant procedural requirements of minor works) and introduced it to the Legislative Council for</p>

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				<p>scrutiny on 30 April 2003. We also held four open seminars between September and October 2003.</p> <p>The draft schedule of minor works is proposed to be submitted to the Legislative Council for scrutiny as a subsidiary legislation. As the schedule of minor works and the classification of the types of works will be determined by various factors, including the technical level of the existing minor works contractors and workers, and the actual market situation of the construction industry, therefore we will take the comments of various bodies into account with a view to formulating a package acceptable by all parties. As for the registration requirements of minor works contractors, we will also report the results to the Legco Panel on Planning, Lands and Works after consulting the industry, as requested by the Bills Committee at its meeting convened on 12 December 2003.</p>
6		<p>Hong Kong Licensed Plumbers Association Limited and Hong Kong Water Works Professional Association Limited</p>	<p>Minor Works control regime will give rise to a lot of problems, including the career opportunity of the workers of the industry (especially those workers with low qualification and comparatively senior in age), the increase in cost including insurance fee, training provided to the workers and the necessary arrangements during transition period etc.</p> <p>The Bill simply introduced a contractor's system and requested the applicant to be a</p>	<p>Please refer to Response to Items 3 and 4.</p>

	Subject/ Clauses	Organization/ Individual	Concerns/Views	Administration's response
			<p>business organization, without considering licensed plumbers, who are mostly self-employed.</p>	
7		<p>Hong Kong Licensed Plumbers Association Limited and Hong Kong Water Works Professional Association Limited</p>	<p>Licensed plumbers have already finished the Course of Craft Certificate in Plumbing and Pipefitting, and the course of Plumbing Services organized by the Vocational Training Council in accordance with Waterworks Ordinance, therefore they should basically be able to handle works related to waterworks system, including drainage works in a professional manner.</p> <p>The professional qualification of licensed plumbers should be recognized and all the licensed plumbers in Hong Kong should deem to have the qualification for issuing personal licences without imposing any conditions.</p> <p>The licensing system should be simplified and set to be a life-long system.</p>	<p>Under the Waterworks Ordinance, a licensed plumber is a person licensed to construct, install, alter, repair, maintain or remove fire services or inside services. These works do not include drainage works. As licensed plumbers are not licensed to carry out drainage works, BD would not automatically register a licensed plumber as an RMWC for drainage works. However, BD has reviewed the qualification requirements of licensed plumbers and noted that a person can only register as a licensed plumber if he holds a Craft Certificate in Plumbing and Pipefitting issued by the VTC. BD has consulted VTC and confirmed that the content of the course leading to the Craft Certificate, apart from covering the water supply systems, has sufficient coverage on drainage works. In view of this, BD would accept this as adequate qualification and therefore a licensed plumber will not be required to attend the top-up course when applying for registration as an RMWC for drainage works. However, the applicant is still required to demonstrate that he has adequate working experience in drainage works, including management and supervision of such works. In addition, for registration as a Class A RMWC, the applicant has to attend an interview by the Contractors Registration Committee. The renewal of relevant licences apply to both Authorised Persons and Registered Contractors under the BO. Plumbers who are registered as minor work contractors should be no exception.</p>

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8		Hong Kong Water Works Professional Association Limited	Under the prevailing legislation, there are no stringent requirements for the Registered General Building Contractors (RGBC) to satisfy the licensing requirement as imposed for licensed plumbers in the aspects of waterworks, pipeworks or drainage works. Therefore, RGBCs cannot totally replace licensed plumbers' professional functions or its unique status.	According to the Buildings Ordinance, RGBCs are required to have thorough knowledge of building works (including drainage works) and the ability to supervise and manage the carrying out of building works. They do not have to obtain the skills of individual type of works. Therefore, the Buildings Department does not require RGBCs to obtain the skills for construction and installation of drainage works. They only need to obtain relevant professional knowledge, appoint competent workers to construct drainage system and perform supervision and management duties.
9		Hong Kong Licensed Plumbers Association Ltd. and Hong Kong Water Works Professionals Association Ltd	Water supply and drainage works are undertaken and installed by licensed plumbers, and inspected by BD.	Under the BO, drainage works are undertaken by RGBC instead of licensed plumbers. As water supply system does not fall within the ambit of BO, BD does not inspect such systems.
10		Hong Kong Water Works Professionals Association Ltd	BD only indicates the information of AP and contractors at its website, but does not publish the functions and list of licensed plumbers at the same time. This is inappropriate.	Licensed plumbers are not registered under the BO. BD is not responsible for establishing the register of licensed plumbers, and the licences of licensed plumbers are not related to building works under the purview of the BO, hence BD is not in a position and is not required to incorporate the list of licensed plumbers into BD's website.

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11		Sign Association of Hong Kong	<p>In the recent months, BD has taken removal action against outdoor advertising signs, and outsourced to the practitioners in the building industry the task of conducting inspection of all buildings in the territories and reporting any suspected unauthorized structures.</p> <p>Signs were put up previously by the industry in accordance with the "Guide on Erection and Maintenance of Advertising Signs" issued by BD. It has been doing well in decades without any problem.</p>	<p>Under the current policy, BD focuses on tackling the UBW which are newly erected or constituting imminent danger to life. Moreover, BD has appointed consultants to assist the carrying out of inspection works so as to expedite the process of tackling UBW. This policy also applies to unauthorized signboards. The guidelines issued by BD also clearly state that prior approval and consent from BA should be obtained for the erection of any signboards, including appointment of an AP to coordinate the work, and an RC for the erection. A large number of the existing signboards were erected without complying with these requirements, and hence they are UBW. There is a need to remove UBW at the earliest dates as they affect building safety and pose danger to the occupants and public.</p>
12		Sign Association of Hong Kong	<p>If the control on the erection of advertising signs has to follow the proposals in the Buildings (Amendment) Bill, the cost of such works will increase tremendously.</p>	<p>Under the existing BO, any signboard falling within the definition of "building" or "building works" is subject to the control of the BO. The requirements include obtaining prior approval of plan and consent for the commencement of works from the BA, and an AP to coordinate the works, and an RC to erect the signboard.</p> <p>As the proposed MW control regime simplifies the current procedures required for carrying out MW, i.e. prior approval and consent from BA are not required, and the appointment of an AP is not required for relatively small-scale works. Therefore, we expect that the cost of erecting signboard will be reduced.</p>

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13		Sign Association of Hong Kong	Agreed to control the outdoor advertising signs	We welcome the Association's support for control on outdoor signboard.
14		Sign Association of Hong Kong	<p>The Association initially suggests the following amendments on the proposed MW Control regime :</p> <p>(Type D) Signboards including associated building works</p> <ul style="list-style-type: none"> - amend Item (1)(b) of Categories I and II for projection more than 900mm from the external wall, but not more than <ul style="list-style-type: none"> ■ 4.9m (from Building Wall Boundary); ■ 6m (from Building Land Boundary). - amend Item (5)(b) to the effect that signboards attached to the external wall being not more than 900mm. 	<p>The requirements for signboards and associated building works under the MW control regime are stipulated according to the "Guide on Erection and Maintenance of Advertising Signs". The Guide has been in use for a long time for the purposes of ensuring public safety. We consider it is unnecessary to make amendments at present and inappropriate to relax the relevant requirements.</p>

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15		Sign Association of Hong Kong	A 3-year grace period should be given upon implementation of the new legislation. (For example, banning the advertisements for cigarettes during the 90's.)	As the proposed MW control regime simplifies the current overly stringent procedures for carrying out MW, we consider it inappropriate to set a grace period. Instead, the new regime should be implemented as soon as possible to provide a simple and legal channel to carry out MW in a safe manner. Under the current policy, BD would remove those newly erected unauthorized signboards and those existing signboards which constitute obvious or imminent danger to life and property.