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HONG KONG SPECIAL ADMINISTRATIVE REGION**ORDINANCE NO. 15 OF 2004**L.S.

TUNG Chee-hwa
Chief Executive
30 June 2004

An Ordinance to amend the Buildings Ordinance, the Building (Administration) Regulations and the Building (Planning) Regulations.

[]

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Buildings (Amendment) Ordinance 2004.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Housing, Planning and Lands by notice published in the Gazette.

2. Interpretation

Section 2(1) of the Buildings Ordinance (Cap. 123) is amended—

- (a) in the definition of “plan”, by repealing “and structural calculations” and substituting “, structural calculations, geotechnical details and geotechnical calculations”;
- (b) in the definition of “Registration Committee”, by adding “, a Geotechnical Engineers Registration Committee” after “Engineers Registration Committee”;
- (c) in the definition of “supervision plan”, by repealing everything after “management of building works or street works” and substituting “prepared in compliance with the technical memorandum issued under section 39A;”;

(d) by adding—

- ““emergency vehicular access” (緊急車輛通道), in relation to a building, means a vehicular access used or to be used for access of a vehicle of the Fire Services Department to the building in the event of a fire or other emergency;
- “registered geotechnical engineer” (註冊岩土工程師) means a person whose name is for the time being on the geotechnical engineers’ register kept under section 3(3A);
- “signboard” (招牌) means a hoarding, framework, scaffolding or other structure erected solely for the purpose of displaying any advertisement, making any announcement or notification, or displaying any visual image or other information;”.

3. Part heading amended

The heading to Part I is amended by adding “, REGISTERED GEOTECHNICAL ENGINEERS” before “AND”.

4. Registers of authorized persons, structural engineers and geotechnical engineers

Section 3 is amended—

(a) by adding—

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

(b) in subsection (4)—

- (i) in paragraph (a), by repealing “and” at the end;
- (ii) in paragraph (b), by repealing the full stop at the end and substituting “; and”;
- (iii) by adding—

“(c) the persons included in the geotechnical engineers’ register.”;

(c) in subsection (5)—

- (i) by repealing “2 panels” and substituting “3 panels”;
- (ii) by repealing “and Structural Engineers Registration Committees” and substituting “, Structural Engineers Registration Committees and Geotechnical Engineers Registration Committees”;

(d) by adding—

“(5CA) A Geotechnical Engineers Registration Committee—

(a) for the period of 12 months beginning on the commencement of section 4 of the Buildings (Amendment) Ordinance 2004 (15 of 2004), consists of—

- (i) 3 registered professional engineers in the geotechnical engineering discipline nominated by the Engineers Registration Board, each of whom shall prior to the nomination have had not less than 15 years of experience in geotechnical engineering;
- (ii) 1 authorized person nominated by the Architects Registration Board from the list of architects in the authorized persons' register;
- (iii) 1 authorized person nominated by the Surveyors Registration Board from the list of surveyors in the authorized persons' register;
- (iv) 1 registered structural engineer nominated by the Engineers Registration Board;
- (v) the Building Authority's representative;
- (vi) 1 public officer of the rank of Government Geotechnical Engineer nominated by the Director of Civil Engineering and Development; and
- (vii) 1 person selected by the Building Authority from among the persons nominated in accordance with subsection (5E);

(b) with effect from the expiry of the period referred to in paragraph (a), consists of—

- (i) 3 registered geotechnical engineers nominated by the Engineers Registration Board;
- (ii) 1 authorized person nominated by the Architects Registration Board from the list of architects in the authorized persons' register;

- (iii) 1 authorized person nominated by the Surveyors Registration Board from the list of surveyors in the authorized persons' register;
 - (iv) 1 registered structural engineer nominated by the Engineers Registration Board;
 - (v) the Building Authority's representative;
 - (vi) 1 public officer of the rank of Government Geotechnical Engineer nominated by the Director of Civil Engineering and Development; and
 - (vii) 1 person selected by the Building Authority from among the persons nominated in accordance with subsection (5E);”;
- (e) in subsection (5E), by repealing “and (5C)” and substituting “, (5C) and (5CA)”;
- (f) in subsection (5F), by repealing “and Registered Structural Engineers” and substituting “, Registered Structural Engineers’ and Registered Geotechnical Engineers”;
- (g) in subsection (5G), by adding “(other than a Geotechnical Engineers Registration Committee)” after “a Registration Committee”;
- (h) by adding—
 - “(5GA) The quorum for a meeting of a Geotechnical Engineers Registration Committee is—
 - (a) the Chairman of the committee;
 - (b) the Building Authority's representative under subsection (5CA)(a)(v) or (b)(v);
 - (c) the public officer nominated under subsection (5CA)(a)(vi) or (b)(vi); and
 - (d) 2 other members.”;
- (i) in subsection (5H)—
 - (i) in paragraph (a), by repealing “and” at the end;
 - (ii) in paragraph (b), by repealing the full stop at the end and substituting a semicolon;
 - (iii) by adding—
 - “(c) for a Geotechnical Engineers Registration Committee under subsection (5CA)(a), a registered professional engineer nominated under subparagraph (i) of that subsection; and

- (d) for a Geotechnical Engineers Registration Committee under subsection (5CA)(b), a registered geotechnical engineer nominated under subparagraph (i) of that subsection.”;
- (j) in subsection (6), by repealing “or the structural engineers’ register” and substituting “, the structural engineers’ register or the geotechnical engineers’ register”;
- (k) by repealing subsection (6A)(a);
- (l) in subsection (7D)—
 - (i) by repealing “or” and substituting a comma;
 - (ii) by repealing “subsection (3)” and substituting “subsection (3) or the geotechnical engineers’ register kept under subsection (3A)”;
- (m) in subsection (8), by repealing everything after “may be” and substituting—
 - “included in more than one of the following registers—
 - (a) the authorized persons’ register;
 - (b) the structural engineers’ register; and
 - (c) the geotechnical engineers’ register,and in more than one list in the authorized persons’ register.”;
- (n) in subsection (9), by repealing “or in the structural engineers’ register” and substituting “, in the structural engineers’ register or in the geotechnical engineers’ register”;
- (o) in subsections (9B)(a), (11) and (11B), by repealing “or the structural engineers’ register” and substituting “, the structural engineers’ register or the geotechnical engineers’ register”;
- (p) in subsection (9B)—
 - (i) in paragraph (a), by repealing “; or” at the end and substituting a comma;
 - (ii) by repealing paragraph (b);
 - (iii) by repealing “12 months” and substituting “5 years”;
- (q) in subsections (9D) and (13A), by repealing “or a registered structural engineer” and substituting “, a registered structural engineer or a registered geotechnical engineer”;
- (r) in subsection (9E), by repealing “or structural engineer” and substituting “, structural engineer or geotechnical engineer”;
- (s) by repealing subsection (10);
- (t) in subsection (11A), by repealing “or the structural engineers’ register or both such registers, under this section or pursuant to section 53F,” and substituting “, the structural engineers’ register or the geotechnical engineers’ register or more than one such register under this section”;

- (u) in subsection (11B)—
 - (i) by repealing “or section 53F”;
 - (ii) by repealing “or a registered structural engineer” and substituting “, a registered structural engineer or a registered geotechnical engineer”;
- (v) in subsections (13)(c) and (15)(b), by repealing “12 months” and substituting “5 years”.

5. Appointment and duties of authorized person, registered structural engineer or registered geotechnical engineer

Section 4 is amended—

- (a) in subsection (1)—
 - (i) in paragraph (a), by repealing “and” at the end;
 - (ii) in paragraph (b), by repealing the full stop at the end and substituting “; and”;
 - (iii) by adding—
 - “(c) a registered geotechnical engineer for the geotechnical elements of such building works or street works if so required under this Ordinance.”;
- (b) in subsection (2)—
 - (i) by repealing “or a registered structural engineer” where it twice appears and substituting “, a registered structural engineer or a registered geotechnical engineer”;
 - (ii) by repealing “or registered structural engineer” where it twice appears and substituting “, registered structural engineer or registered geotechnical engineer”;
- (c) in subsection (3), by repealing “and any registered structural engineer” and substituting “, any registered structural engineer and any registered geotechnical engineer”;
- (d) by adding—
 - “(5) A geotechnical engineer may not be appointed under subsection (1)(c) unless he is registered in the geotechnical engineers’ register.”.

6. Appointment and powers of disciplinary board

Section 5 is amended—

- (a) in subsection (2)(a), by repealing “and Registered Structural Engineers” and substituting “, Registered Structural Engineers and Registered Geotechnical Engineers”;

- (b) in subsection (2B), by repealing “or a registered structural engineer” and substituting “, a registered structural engineer or a registered geotechnical engineer”.

7. Authorized Persons’, Registered Structural Engineers’ and Registered Geotechnical Engineers’ Disciplinary Board Panel

Section 5A is amended—

- (a) in subsection (1), by repealing “and Registered Structural Engineers’” and substituting “, Registered Structural Engineers’ and Registered Geotechnical Engineers’”;
- (b) in subsection (2)—
 - (i) by repealing “and Registered Structural Engineers’” and substituting “, Registered Structural Engineers’ and Registered Geotechnical Engineers’”;
 - (ii) by repealing “20” and substituting “25”;
 - (iii) in paragraph (c), by repealing “and” at the end;
 - (iv) in paragraph (d), by repealing the full stop at the end and substituting “; and”;
 - (v) by adding—
 - “(e) 5 are registered geotechnical engineers.”.

8. Disciplinary proceedings for authorized person, registered structural engineer or registered geotechnical engineer

Section 7 is amended—

- (a) in subsection (1), by repealing “or a registered structural engineer” and substituting “, a registered structural engineer or a registered geotechnical engineer”;
- (b) in subsections (1)(c), (2)(ba), (3) and (4)(a), by repealing “or registered structural engineer” and substituting “, registered structural engineer or registered geotechnical engineer”;
- (c) in subsection (2)—
 - (i) by repealing “or the registered structural engineer” and substituting “, the registered structural engineer or the registered geotechnical engineer”;
 - (ii) in paragraph (a)(i), by repealing “or the structural engineers’ register” and substituting “, structural engineers’ or geotechnical engineers’ register”;

- (iii) in paragraph (a)(ii), by repealing “both registers, from both registers” and substituting “more than one such register, from those registers”;
- (iv) in paragraph (b), by repealing “and” at the end and substituting “or”;
- (v) in paragraph (ba), by repealing “; or” at the end and substituting a full stop;
- (vi) by repealing paragraph (c);
- (d) by adding—
 - “(2A) Where the disciplinary board makes an order under subsection (2), it shall order that its findings and order be published in the Gazette.”.

9. Contractors Registration Committee

Section 8 is amended—

- (a) in subsection (3)—
 - (i) by repealing “A Contractors” and substituting “In relation to a Contractors Registration Committee appointed to assist the Building Authority in considering applications for inclusion in a register of general building contractors kept under section 8A(1)(a), the Contractors”;
 - (ii) in paragraph (b), by repealing everything after “each of” and substituting “the Architects Registration Board, the Engineers Registration Board and the Surveyors Registration Board from the lists of authorized persons, registered structural engineers and registered geotechnical engineers;”;
- (b) by adding—
 - “(3A) In relation to a Contractors Registration Committee appointed to assist the Building Authority in considering applications for inclusion in a register of specialist contractors kept under section 8A(1)(b), the Contractors Registration Committee consists of—
 - (a) the Building Authority’s representative;
 - (b) 3 persons, 1 of whom is nominated by each of the Architects Registration Board, the Engineers Registration Board and the Surveyors Registration Board from the lists of authorized persons, registered structural engineers and registered geotechnical engineers;

- (c) 3 persons nominated by The Hong Kong Construction Association Ltd.; and
- (d) 2 persons selected by the Building Authority from among persons nominated by such bodies as the Building Authority may think fit.”;
- (c) in subsection (5), by repealing “and Registered Structural Engineers” and substituting “, Registered Structural Engineers’ and Registered Geotechnical Engineers”.

10. Application for registration as a contractor

Section 8B is amended—

- (a) by repealing subsection (4);
- (b) by repealing subsection (5)(a);
- (c) in subsection (6), by adding “relevant” before “Contractors Registration Committee”;
- (d) in subsection (7), by adding “relevant” before “Contractors Registration Committee”;
- (e) in subsection (10), by adding “relevant” before “Contractors Registration Committee”;
- (f) by adding—
 - “(12) A registration under this section expires, unless the contractor’s name is removed from the relevant register by order of a disciplinary board, on the expiry of 3 years beginning on the date of inclusion of his name in the register.”.

11. Renewal of registration as a contractor

Section 8C is amended—

- (a) in subsection (1)—
 - (i) by repealing paragraph (a) and substituting—
 - “(a) if his name is on any one of the registers.”;
 - (ii) by repealing paragraph (b);
- (b) in subsection (2)—
 - (i) in paragraph (c), by adding “and” at the end;
 - (ii) by repealing paragraph (d);
- (c) in subsection (4), by adding “relevant” after “advice of the”;

(d) by adding—

“(8) A registration renewed under this section expires, unless the contractor’s name is removed from the relevant register by order of a disciplinary board, on the expiry of 3 years beginning on the date of the expiry of the previous registration.”.

12. Restoring name to register of contractors

Section 8D is amended—

(a) in subsection (2)—

(i) in paragraph (a), by adding “and” at the end;

(ii) by repealing paragraph (b);

(b) in subsection (3), by adding “relevant” after “advice of the”;

(c) by adding—

“(5) A registration restored under this section expires, unless the contractor’s name is removed from the relevant register by order of a disciplinary board, on the expiry of 3 years beginning on the date of restoration of the applicant’s name to the register.”.

13. Effective dates

Section 8F(3) is amended by repealing “(except an expiry pursuant to section 53F)”.

14. Transitional

Section 8G is repealed.

15. Appointment and duties of registered contractors

Section 9 is amended by repealing subsection (7).

16. Appointment and powers of disciplinary board

Section 11 is amended—

(a) in subsection (2)(b), by repealing “and Registered Structural Engineers” and substituting “, Registered Structural Engineers’ and Registered Geotechnical Engineers”;

- (b) by repealing subsection (3)(b) and substituting—
- “(b) (i) in the case where the matters to be brought to the notice of the board relate to geotechnical works, 5 persons who are members of the Authorized Persons’, Registered Structural Engineers’ and Registered Geotechnical Engineers’ Disciplinary Board Panel of whom—
- (A) 1 shall be a person referred to in section 5A(2)(a);
 - (B) 1 shall be a person referred to in section 5A(2)(b);
 - (C) 1 shall be a person referred to in section 5A(2)(c);
 - (D) 1 shall be a person referred to in section 5A(2)(d); and
 - (E) 1 shall be a person referred to in section 5A(2)(e); and
- (ii) in other cases, 4 persons who are members of the Panel referred to in subparagraph (i) of whom—
- (A) 1 shall be a person referred to in section 5A(2)(a);
 - (B) 1 shall be a person referred to in section 5A(2)(b);
 - (C) 1 shall be a person referred to in section 5A(2)(c); and
 - (D) 1 shall be a person referred to in section 5A(2)(d);”.

17. Disciplinary proceedings for contractors

Section 13 is amended—

- (a) in subsection (4)—
- (i) in paragraph (c), by repealing “; and” and substituting a full stop;
 - (ii) by repealing paragraph (d);
- (b) by adding—
- “(4A) Where the disciplinary board makes an order under subsection (4), it shall order that its findings and order be published in the Gazette.”.

18. Grounds on which approval or consent may be refused

Section 16(3)(*bb*) is amended by adding “registered geotechnical engineer,” after “engineer,”.

19. Conditions may be imposed in certain cases

Section 17(2) is repealed.

20. Provision for urgent work

Section 19(4)(*c*) is amended by adding “, the registered geotechnical engineer” after “engineer”.

21. Order for demolition, removal, or alteration of building, building works or street works

Section 24 is amended—

(*a*) by repealing subsection (2) and substituting—

“(2) An order made under subsection (1) shall be served on—

(*a*) in the case of a building or building works but subject to subsection (2A), the owner of the land or premises on which the building has been erected or on which the building works have been or are being carried out;

(*b*) in the case of street works, the frontagers; and

(*c*) in the case of building works the subject matter of which is a signboard—

(i) the person for whom the signboard has been erected or is being erected; or

(ii) if that person cannot be found, the person who would receive any rent or other money consideration if the signboard were hired out or the person who is receiving such rent or money consideration; or

(iii) if the persons referred to in subparagraphs (i) and (ii) cannot be found, the owner of the land or premises on which the signboard has been erected or is being erected.

(2A) Where the building or building works referred to in subsection (2)(a) is or are—

- (a) connected to land or premises (in this section referred to as “other land or premises”) other than the land or premises on which the building has been erected or on which the building works have been or are being carried out; and
- (b) occupied or used by the owner or occupier of that other land or premises,

subsection (2)(a) shall not apply and in such a case, an order made under subsection (1) in respect of the building or building works shall be served on the owner of that other land or premises.

(2B) References in subsections (2)(a) and (2A) to building works do not include references to building works the subject matter of which is a signboard.

(2C) The Building Authority may, upon the service of an order under subsection (2)(a), (b) or (c)(iii) or (2A), cause the order to be registered in the Land Registry against—

- (a) if the order has been served on the owner of any land or premises in accordance with subsection (2)(a) or (c)(iii), the land or premises;
- (b) if the order has been served on the frontagers in accordance with subsection (2)(b), the premises of the frontagers to which the street works relate; or
- (c) if the order has been served on the owner of other land or premises in accordance with subsection (2A), that other land or premises.”;

(b) by repealing subsection (4) and substituting—

“(4) Subject to subsection (4A), the cost of any demolition or alteration under subsection (3) in relation to the building, building works or street works to which the order relates shall be recoverable from—

- (a) if the order had been served on the owner of any land or premises in accordance with subsection (2)(a) or (c)(iii), that owner;
- (b) if the order had been served on the frontagers in accordance with subsection (2)(b), those frontagers;

(c) if the order had been served on a person in accordance with subsection (2)(c)(i) or (ii), that person; or

(d) if the order had been served on the owner of other land or premises in accordance with subsection (2A), that owner.

(4A) Where the order has been registered with the Land Registry in accordance with subsection (2C), the cost of any demolition or alteration under subsection (3) in relation to the building, building works or street works to which the order relates shall be recoverable from—

(a) if the order had been served on the owner of any land or premises in accordance with subsection (2)(a) or (c)(iii), the person who, as at the date of completion of the demolition or alteration, is the owner of that land or premises;

(b) if the order had been served on the frontagers in accordance with subsection (2)(b), the persons who, as at the date of completion of the demolition or alteration, are the frontagers to which the street works relate; or

(c) if the order had been served on the owner of other land or premises in accordance with subsection (2A), the person who, as at the date of completion of the demolition or alteration, is the owner of that other land or premises.

(4B) Where the cost of any demolition or alteration is recovered from frontagers under subsection (4) or (4A), the Building Authority shall apportion the cost—

(a) in the case of private streets, according to the frontages of the premises owned by such frontagers; or

(b) in the case of access roads, equally.

(4C) A certificate purporting to be under the hand of the Building Authority and stating the date of completion of the demolition or alteration under subsection (3) shall be prima facie evidence of that fact.”

22. Section added

The following is added—

“24C. Notice for demolition or alteration of building or building works

(1) Where any building has been erected, or where any building works have been or are being carried out, in contravention of any of the provisions of this Ordinance, the Building Authority, without prejudice to his powers under sections 24 and 24B, may issue a notice in writing—

- (a) identifying the location of the building or building works and the land or premises affected by the building or building works;
- (b) describing the building or building works which, in the opinion of the Building Authority, has been erected or have been or are being carried out in contravention of any of the provisions of this Ordinance and stating those provisions;
- (c) stating the powers of the Building Authority under this Ordinance in relation to the building or building works; and
- (d) specifying a date after which the notice will be registered with the Land Registry in accordance with subsection (4) if before that date—
 - (i) the building or building works is or are not demolished; or
 - (ii) the building or building works is or are not altered in such a manner as to cause the building or building works to comply with those provisions, or otherwise to put an end to the contraventions of those provisions.

(2) Subject to subsection (3), a notice issued under subsection (1) shall be served on the owner of the land or premises on which the building has been erected or on which the building works have been or are being carried out.

(3) Where the building or building works is or are—

- (a) connected to land or premises (in this section referred to as “other land or premises”) other than the land or premises on which the building has been erected or on which the building works have been or are being carried out; and
- (b) occupied or used by the owner or occupier of that other land or premises,

subsection (2) shall not apply and in such a case, a notice issued under subsection (1) shall be served on the owner of that other land or premises.

(4) The Building Authority shall, where the building or building works is or are not demolished or altered in the manner described in subsection (1)(d)(ii) before the date specified in the notice, cause the notice to be registered in the Land Registry against—

- (a) if the notice has been served on the owner of any land or premises in accordance with subsection (2), the land or premises; or
- (b) if the notice has been served on the owner of other land or premises in accordance with subsection (3), that other land or premises.

(5) A notice under this section shall be deemed to be an instrument affecting land or premises and shall be registrable in the Land Registry.

(6) Where the building or building works the subject of a notice issued under subsection (1) has or have been demolished or altered in the manner described in subsection (1)(d)(ii), the Building Authority may lodge in the Land Registry an appropriate instrument of satisfaction against that notice.”.

23. Dangerous hillsides, etc.

Section 27A(2)(b) is amended by repealing “to carry out” and substituting “to appoint an authorized person, a registered structural engineer or a registered geotechnical engineer or any combination of them specified in the order to carry out”.

24. Section added

The following is added—

“29A. Maintenance of emergency vehicular access

(1) An emergency vehicular access shall be maintained in good order by the owner of the emergency vehicular access.

(2) Where, on inspection, the Building Authority finds—

- (a) any dilapidation or defect in an emergency vehicular access;
or
- (b) any alteration or addition made to an emergency vehicular access,

has resulted, or is likely to result, in the emergency vehicular access being no longer capable of serving the purpose for which it is designed and constructed, the Building Authority may by order in writing served on the owner of the emergency vehicular access require him to carry out, within such time as may be specified in the order, such work as the Building Authority considers necessary.

(3) Where an order served under subsection (2) is not complied with, the Building Authority may carry out or cause to be carried out the work required by the order to be carried out, and subject to subsection (6), the cost of such work shall be recoverable from the owner of the emergency vehicular access.

(4) Where in the opinion of the Building Authority, an emergency vehicular access has been rendered dangerous or liable to become dangerous and emergency has thereby arisen, he may carry out or cause to be carried out such work as may appear to him to be necessary, either without service of a notice on the owner of the emergency vehicular access, or before or after such notice, and so far as it is in his opinion attributable to such emergency, the cost of such work shall be recoverable from the owner of the emergency vehicular access. The decision of the Building Authority that the particular case is one of emergency shall be final and binding on all persons.

(5) The Building Authority may, upon the service of an order under subsection (2), cause the order to be registered in the Land Registry against the emergency vehicular access to which the order relates.

(6) Where the order has been registered with the Land Registry in accordance with subsection (5), the cost of any work carried out pursuant to subsection (3) shall be recoverable from any person who, as at the date of completion of the work, is the owner of the emergency vehicular access to which the order relates.

(7) A certificate purporting to be under the hand of the Building Authority and stating the date of completion of any work carried out under subsection (3) shall be prima facie evidence of that fact.”.

25. Admissibility in evidence of certified copies of documents, etc.

Section 36 is amended by adding—

“(2A) The Building Authority or any public officer authorized by him may upon payment of the prescribed fee—

- (a) issue to a person a copy, print or extract of or from—
 - (i) any plan or document specified in subsection (1)(a); or
 - (ii) any microfilm or any other form of record of the plan or document; or
- (b) permit a person to inspect such a plan or document.”.

26. Effect of documents, etc. recorded on microfilm or other form of record

Section 36A is amended by repealing “on microfilm, the microfilm record” and substituting “on microfilm or any other form of record, the microfilm record or other form of record”.

27. Disposal of document

Section 36B is amended by adding “or any other form of record” after “microfilm”.

28. Regulations

Section 38(1) is amended—

(a) in paragraph (a), by adding—

“(ii*a*) registered geotechnical engineers;”;

(b) in paragraph (c)—

(i) in subparagraph (xiii), by repealing “and” at the end;

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

(iii) by adding—

“(xv) matters relating to the provision of emergency vehicular access;”;

(c) in paragraph (d)—

(i) in subparagraph (xi), by repealing “and” at the end;

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

(iii) by adding—

“(xiii) matters relating to the provision of emergency vehicular access;”.

29. Technical memorandum

Section 39A(1)(*f*) is amended by adding “registered geotechnical engineer,” after “engineer,”.

30. Section added

The following is added in Part III—

“39B. Obstruction of owners’ corporation

(1) No person who has been notified by an owners’ corporation of a building that an order has been served on the owners’ corporation under sections 24(1), 26(1), 26A(1) or (3), 27A(1) or (2B), 27C(1) or (4) or 28(2)(a), (3) or (5) in relation to any common parts of the building shall—

(a) obstruct a person employed or engaged by the owners’ corporation in the carrying out of any works or other action that is required for the purpose of complying with the order; or

(b) refuse to allow a person employed or engaged by the owners’ corporation access to or the use of any premises, which is reasonably necessary for the carrying out of any works or other action that is required for the purpose of complying with the order.

(2) In this section—

“common parts” (公用部分) has the meaning assigned to it in section 2 of the Building Management Ordinance (Cap. 344);

“owners’ corporation” (業主立案法團) means a corporation registered under section 8 of the Building Management Ordinance (Cap. 344).”.

31. Offences

Section 40 is amended—

(a) by adding before subsection (1)—

“(1AA) Any person who contravenes section 14(1) shall be guilty of an offence and shall be liable on conviction—

(a) to a fine of \$400,000 and to imprisonment for 2 years; and

(b) to a fine of \$20,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.”;

(b) in subsection (1), by repealing “14(1) or”;

(c) in subsection (1B)—

(i) in paragraph (b)—

(A) by repealing “24(1),”;

(B) by adding “29A(2),” after “29(2)(a),”;

(ii) in paragraph (ii), by repealing “24(1),”;

(d) by adding—

“(1BA) Any person who, without reasonable excuse, fails to comply with an order served on him under section 24(1) shall be guilty of an offence and shall be liable on conviction—

- (a) to a fine of \$200,000 and to imprisonment for 1 year; and
- (b) to a fine of \$20,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.”;
- (e) in subsection (2A)—
 - (i) by adding “registered geotechnical engineer,” after “engineer,”;
 - (ii) by repealing “\$250,000” and substituting “\$1,000,000”;
- (f) in subsection (2AA)—
 - (i) by repealing “or registered structural engineer” and substituting “, registered structural engineer or registered geotechnical engineer”;
 - (ii) by repealing “and to imprisonment for 3 years”;
- (g) in subsections (2AB), (2AC) and (2B), by adding “a registered geotechnical engineer,” after “engineer,”;
- (h) in subsection (2AB), by repealing “\$50,000” and substituting “\$150,000”;
- (i) in subsection (2AC), by repealing “\$250,000” and substituting “\$750,000”;
- (j) in subsection (2B), by repealing “\$250,000” and substituting “\$1,000,000”;
- (k) in subsection (2C)—
 - (i) in paragraph (a), by repealing “\$250,000” and substituting “\$1,000,000”;
 - (ii) in paragraph (b), by repealing “\$50,000” and substituting “\$200,000”;
- (l) by adding—
 - “(4B) Any person who without reasonable excuse contravenes section 39B(1) shall be guilty of an offence and shall be liable on conviction to a fine at level 3 and to imprisonment for 6 months.”.

32. Interpretation

Section 53E is amended by repealing the definition of “amending Ordinance” and substituting—

““amending Ordinance” (修訂條例)—

- (a) in relation to the definition of “relevant date” and section 53G, means the Buildings (Amendment) Ordinance 1994 (77 of 1994); and
- (b) in relation to section 53J, means the Buildings (Amendment) Ordinance 2004 (15 of 2004);”.

33. Sections added

The following are added in Part VII—

“53H. Inclusion of certain registered professional engineers in geotechnical engineers’ register

Notwithstanding section 3(7), the Building Authority shall, on payment by a registered professional engineer referred to in section 3(5CA)(a)(i) of the prescribed fees for inclusion and retention of his name in the geotechnical engineers’ register, publish in the Gazette and include in the geotechnical engineers’ register the name of the registered professional engineer, and section 3(9B) to (16) shall apply accordingly as if his name were included in the geotechnical engineers’ register under section 3.

53I. Application for inclusion in geotechnical engineers’ register without prescribed qualifications

(1) A person who applies under section 3(6) within 12 months from the commencement of this section for inclusion in a geotechnical engineers’ register shall be deemed to have satisfied section 3(7)(a) for the purposes of his application if he satisfies the conditions specified in subsection (2).

(2) The conditions referred to in subsection (1) are that the person—

- (a) is an authorized person included in the list of engineers or is a registered structural engineer, who—
 - (i) during the period of 7 years immediately preceding the date of his application, has been engaged in or has taken part in site formation works carried out and completed in accordance with this Ordinance;
 - (ii) was the authorized person or registered structural engineer appointed under section 4(1) in respect of the buildings works or street works in relation to which the site formation works were carried out; and
 - (iii) satisfies the Building Authority that he has the appropriate geotechnical experience and competence in relation to the site formation works; or
- (b) is a registered professional engineer in the civil or structural engineering discipline, who—
 - (i) has such practical experience in geotechnical engineering as may be approved by the Geotechnical Engineers Registration Committee; and

(ii) for a continuous period of 1 year within the 3 years immediately preceding the date of his application, have had such practical experience in geotechnical engineering gained in Hong Kong as the Geotechnical Engineers Registration Committee considers appropriate.

(3) The Building Authority may require the applicant to furnish such information or documents as the Building Authority may reasonably require for the purpose of considering the application.

(4) Section 3 shall apply to or in relation to a person who seeks to avail himself of subsections (1) and (2)(a), and in the case where his application is granted, to or in relation to his registration under that section, subject to the following modifications—

- (a) subsections (7) and (7C) of section 3 shall be construed as if paragraph (b) of each of the subsections had been omitted;
- (b) section 3(9) shall be construed as if for the words “the date of the meeting of the respective Registration Committee at which the application was considered”, there were substituted “the date of receiving the application”;
- (c) the person shall be deemed to have held the prescribed qualifications referred to in section 3(9D) and (13A) for registration as a registered geotechnical engineer if he remains an authorized person in the list of engineers or a registered structural engineer; and
- (d) the person shall be deemed to have ceased to hold the prescribed qualifications referred to in section 3(11B) if he ceases to be an authorized person in the list of engineers or a registered structural engineer.

(5) Regulation 4 of the Building (Administration) Regulations (Cap. 123 sub. leg. A) shall not apply to a person who seeks to avail himself of subsections (1) and (2)(a).

(6) Section 3 shall apply to or in relation to a person who seeks to avail himself of subsections (1) and (2)(b), and in the case where his application is granted, to or in relation to his registration under that section, subject to the following modifications—

- (a) the reference in section 3(6A)(b)(ii) to the prescribed fee for retention shall be construed as a reference to a fee of \$855;
- (b) within 3 years beginning on the date from which the person’s registration becomes effective, the person shall be deemed to have ceased to hold the prescribed qualifications referred to in section 3(11B) if he—
 - (i) ceases to be a registered professional engineer in the civil or structural engineering discipline; and

- (ii) has not obtained the prescribed qualifications for inclusion in a geotechnical engineers' register; and
- (c) the reference in section 3(15)(b) to 5 years shall be construed as a reference to 3 years.

53J. Transitional provisions for other miscellaneous matters

(1) Where an application under section 3(6) or 8B(1) was pending immediately before the commencement of the amendments made to section 3(6A)(a) and (15)(b) or 8B(5)(a) by the amending Ordinance, then the application shall be treated and disposed of under section 3 or 8B as amended by the amending Ordinance, as if the applicant had specified in the application—

- (a) in the case of an application under section 3(6), a period of 5 years beginning on the date of inclusion of his name in the register concerned, for which he seeks his name to be retained in that register; and
- (b) in the case of an application under section 8B(1), a period of 3 years beginning on the date of inclusion of his name in the register concerned, for which he seeks registration.

(2) Where an application under section 3(9B) or (12) was pending immediately before the commencement of the amendments made to section 3(9B), (13)(c) and (15)(b) by the amending Ordinance, then section 3 and regulation 42 of the Building (Administration) Regulations (Cap. 123 sub. leg. A) in force immediately before that commencement shall continue to apply to and in relation to the application.

(3) Where an application under section 8C(1) or 8D(1) was pending immediately before the commencement of the amendments made to section 8C(2)(d) or 8D(2)(b) by the amending Ordinance, then section 8C or 8D and regulation 42 of the Building (Administration) Regulations (Cap. 123 sub. leg. A) in force immediately before that commencement shall continue to apply to and in relation to the application.

(4) In relation to an application referred to in subsection (3), the Building Authority may seek the advice of the relevant Contractors Registration Committee on the application.

(5) Notwithstanding the amendments made to section 8 by the amending Ordinance, on and after the commencement of those amendments—

- (a) section 9A shall apply to and in relation to a decision of a Contractors Registration Committee existing immediately before that commencement as if those amendments had not been made; and

- (b) a recommendation made by the Contractors Registration Committee which was in force immediately before that commencement shall continue to be in force and have effect for the purpose of section 8B(10).”.

Building (Administration) Regulations

34. Interpretation

Regulation 2 of the Building (Administration) Regulations (Cap. 123 sub. leg. A) is amended by adding—

““geotechnical engineers’ register” (岩土工程師名冊) means the register kept under section 3(3A) of the Ordinance;”.

35. Part heading amended

The heading to Part II is amended by repealing “AND REGISTERED STRUCTURAL ENGINEERS” and substituting “, REGISTERED STRUCTURAL ENGINEERS, REGISTERED GEOTECHNICAL ENGINEERS AND REGISTERED CONTRACTORS”.

36. Qualification for inclusion in register

Regulation 3 is amended by adding—

“(4A) A person shall not be included in the geotechnical engineers’ register unless he—

- (a) is a registered professional engineer in the geotechnical engineering discipline; and
- (b) complies with paragraph (6).”.

37. Requirements upon application for inclusion in register

Regulation 4(1) is amended by repealing “or structural engineers’ register” where it twice appears and substituting “, structural engineers’ register or geotechnical engineers’ register”.

38. Requirements for inclusion in registers of general building contractors and specialist contractors

Regulation 4A is amended—

- (a) in paragraph (1)—
 - (i) by adding “relevant” before “Contractors” wherever it appears;
 - (ii) in subparagraphs (a) and (c), by adding “or sub-register” after “relevant register”;
- (b) in paragraph (2), by adding “relevant” before “Contractors”.

39. Authorized person, registered structural engineer or registered geotechnical engineer not to act as contractor, etc. without disclosure to client

Regulation 5 is amended by repealing “or registered structural engineer” and substituting “, registered structural engineer or registered geotechnical engineer”.

40. Plans, etc. to be signed by person who prepared them

Regulation 12 is amended—

- (a) in paragraph (1), by repealing “paragraph (2)” and substituting “paragraphs (2) and (5)”;
- (b) by adding—

“(5) All geotechnical plans, geotechnical assessment, geotechnical details and calculations, geotechnical reports, site investigation reports or ground investigation reports required under or pursuant to regulation 8(1)(b)(iv), (ba), (bb), (bc), (d) and (l), (3) and (4)(c) shall be prepared and signed by a registered geotechnical engineer, and his signature shall be deemed to be his assumption of all responsibility for the geotechnical plans, geotechnical assessment, geotechnical details and calculations, geotechnical reports, site investigation reports or ground investigation reports, as the case may be.”.

41. Power of Building Authority to refuse to accept plans

Regulation 15 is amended by repealing “or registered structural engineers” and substituting “, registered structural engineers or registered geotechnical engineers,”.

**42. Certificate by authorized person, etc.
to be submitted with plans**

Regulation 18A is amended by repealing “or by the registered structural engineer” and substituting “, registered structural engineer or registered geotechnical engineer”.

**43. Authorized person, registered structural engineer
or registered geotechnical engineer who has
prepared plans submitted to Building
Authority to notify Building Authority
if he ceases to be engaged**

Regulation 19 is amended by repealing “or registered structural engineer” and substituting “, registered structural engineer or registered geotechnical engineer”.

**44. Notification to Building Authority before
commencement of building works
or street works**

Regulation 20 is amended, in paragraph (2), by repealing “or the registered structural engineer” and substituting “, the registered structural engineer or the registered geotechnical engineer”.

**45. Building Authority to be notified on change of
authorized person, registered structural
engineer, registered geotechnical engineer,
registered contractor, etc.**

Regulation 22 is amended—

(a) in paragraph (1)—

(i) by repealing “or registered structural engineer or” and substituting “, registered structural engineer, registered geotechnical engineer,”;

(ii) by adding “registered geotechnical engineer,” after “structural engineer,”;

(b) in paragraph (2)—

(i) by adding “registered geotechnical engineer,” after “structural engineer,” where it first and last appears;

(ii) by adding “in the case of a registered geotechnical engineer, any geotechnical work,” after “any structural work,”;

- (c) in paragraphs (3) and (5), by repealing “or registered structural engineer” and substituting “, registered structural engineer or registered geotechnical engineer”.

46. Information to be supplied to Building Authority respecting appointments, etc.

Regulation 23 is amended by repealing “or registered structural engineer” wherever it appears and substituting “, registered structural engineer or registered geotechnical engineer”.

47. Certificate to be given by registered contractor and authorized person on completion of building works

Regulation 25 is amended—

- (a) in paragraph (1), by repealing “or registered structural engineer” and substituting “, registered structural engineer or registered geotechnical engineer”;
- (b) in paragraph (3)—
 - (i) by adding “or registered geotechnical engineer” after “structural engineer” where it twice appears;
 - (ii) by repealing “structurally safe” and substituting “structurally or geotechnically (as the case may be) safe”;
- (c) in paragraph (4), by repealing “and the registered structural engineer” and substituting “, registered structural engineer and registered geotechnical engineer”.

48. Certificate to be given by authorized person, registered structural engineer, registered geotechnical engineer and registered contractor engaged in respect of emergency work

Regulation 28 is amended by repealing “and registered structural engineer” and substituting “, registered structural engineer and registered geotechnical engineer”.

49. Approval of plans

Regulation 30 is amended—

- (a) in paragraph (1)(b), by adding “and geotechnical calculations” after “structural calculations”;

- (b) in paragraphs (1)(b) and (4), by repealing “or registered structural engineer” and substituting “, registered structural engineer or registered geotechnical engineer”.

50. Part heading amended

The heading to Part V is amended by repealing “OR REGISTERED STRUCTURAL ENGINEER” and substituting “, REGISTERED STRUCTURAL ENGINEER OR REGISTERED GEOTECHNICAL ENGINEER”.

51. Duties imposed by this Part not to prejudice any other duties imposed by Ordinance or other regulations

Regulation 35 is amended—

- (a) by repealing “or registered structural engineer or a registered general building contractor or registered specialist contractor” and substituting “, registered structural engineer, registered geotechnical engineer, registered general building contractor or registered specialist contractor”;
- (b) by repealing “or registered structural engineer or registered general building contractor or registered specialist contractor” and substituting “, registered structural engineer, registered geotechnical engineer, registered general building contractor or registered specialist contractor”.

52. Subheading amended

The subheading before regulation 36 is amended by repealing “or registered structural engineer” and substituting “, registered structural engineer or registered geotechnical engineer”.

53. Duty of authorized person to supply copy of plans of building works or street works to registered contractor

Regulation 36 is amended, in paragraph (2)—

- (a) by adding “or geotechnical details” after “details”;
- (b) by adding “or a registered geotechnical engineer, as the case may be,” after “engineer”.

54. Duty of authorized person, registered structural engineer or registered geotechnical engineer

Regulation 37 is amended—

- (a) in paragraph (2)—
 - (i) by adding “or the registered geotechnical engineer” after “engineer”;
 - (ii) by adding “or geotechnical works, as the case may be,” after “structural works”;
- (b) in paragraph (3), by repealing “and the registered structural engineer” where it twice appears and substituting “, the registered structural engineer and the registered geotechnical engineer”.

55. Fees in respect of additional inspection upon completion of building works or street works

Regulation 39 is amended by repealing “or registered structural engineer” and substituting “, registered structural engineer or registered geotechnical engineer”.

56. Duty of registered contractor to keep approved plans and supervision plans on site

Regulation 40 is amended by repealing “or registered structural engineer” and substituting “, registered structural engineer or registered geotechnical engineer”.

57. Fees

Regulation 42 is amended in the Table of Fees—

- (a) in item 1(a)(i) and (ii), (b) and (c), in column 1, by adding “or geotechnical engineers’ register” after “engineers’ register”;
- (b) in items 1(b) and 8, in column 2, by adding “or registered geotechnical engineer” after “engineer”;
- (c) in item 1(b), in column 3, by repealing “\$815 for retention for a period of 12 months” and substituting “\$1,200 for retention for a period of 5 years”;
- (d) in item 2(b), in column 3, by repealing “\$1,500 for registration for a period of 1 year or”;

- (e) in item 2(c), in column 3, by repealing “\$1,460 for renewal of registration for a period of 1 year or”;
- (f) in item 2(d), in column 3, by repealing “\$1,500 for registration for a period of 1 year or”;
- (g) in item 4A(b), in column 3, by repealing “\$1,500 for registration for a period of 1 year or”;
- (h) in item 4A(c), in column 3, by repealing “\$1,460 for renewal of registration for a period of 1 year or”;
- (i) in item 4A(d), in column 3, by repealing “\$1,500 for registration for a period of 1 year or”;
- (j) by repealing item 10 and substituting—

“10. (a) For issue under section 36(2) of the Ordinance of a certified copy, print or extract of or from any document (other than a plan) which is recorded in—

(i) paper form	Applicant	\$45	}	for applicants who have not inspected the document pursuant to section 36(2A)(b) of the Ordinance immediately before the issue	\$8.5	}	for applicants who have inspected the document pursuant to section 36(2A)(b) of the Ordinance immediately before the issue
(ii) microfilm form	Applicant	\$45		\$8.5			
(iii) electronic form	Applicant	\$45		\$8.0			

(b) For issue under 36(2) of the Ordinance of a certified copy, print or extract of or from any

plan which is recorded in—

(i) paper form	Applicant	\$155	} for applicants who have not inspected the plan pursuant to section 36(2A)(b) of the Ordinance immediately before the issue	\$58	} for applicants who have inspected the plan pursuant to section 36(2A)(b) of the Ordinance immediately before the issue
(ii) microfilm form	Applicant	\$125		\$52	
(iii) electronic form	Applicant	\$93		\$42	

11. (a) For issue under section 36(2A)(a) of the Ordinance of a copy, print or extract of or from any document (other than a plan) which is recorded in—

(i) paper form	Applicant	\$38	} for applicants who have not inspected the document pursuant to section 36(2A)(b) of the Ordinance immediately before the issue	\$1.6	} for applicants who have inspected the document pursuant to section 36(2A)(b) of the Ordinance immediately before the issue
(ii) microfilm form	Applicant	\$38		\$1.6	
(iii) electronic form	Applicant	\$38		\$1.4	

(b) For issue under section 36(2A)(a) of the Ordinance of a copy, print or extract of or from any plan which is recorded in—

(i) paper form	Applicant	\$135	} for applicants who have not inspected the plan pursuant to section 36(2A)(b) of the Ordinance immediately before the issue	\$40	} for applicants who have inspected the plan pursuant to section 36(2A)(b) of the Ordinance immediately before the issue
(ii) microfilm form	Applicant	\$110		\$34	
(iii) electronic form	Applicant	\$74		\$24	

12. (a) For inspection under section 36(2A)(b) of the Ordinance of a plan or document which is recorded in—

(i) paper form	Applicant	\$80	for one or more plans or documents kept in the same file in paper form
(ii) microfilm form	Applicant	\$58	for one or more plans or documents originally kept in the same file in paper form
(iii) electronic form	Applicant	\$36	for one or more plans or documents originally kept in the same file in paper form

For the purposes of this item, 2 or more files are regarded as the same file if they bear the same file reference number.”.

58. Duty of authorized person, registered structural engineer or registered geotechnical engineer who has prepared plans to supply to Building Authority such information as he may require

Regulation 44 is amended by repealing “or registered structural engineer” and substituting “, registered structural engineer or registered geotechnical engineer”.

59. Duty of authorized person, registered structural engineer, registered geotechnical engineer, registered contractor, etc. to notify Building Authority of change of business address

Regulation 45 is amended by adding “registered geotechnical engineer,” after “engineer,”.

Building (Planning) Regulations

60. Regulation added

The Building (Planning) Regulations (Cap. 123 sub. leg. F) are amended by adding—

“41D. Emergency vehicular access

(1) Every building shall be provided with an emergency vehicular access which is so designed and constructed as—

(a) to allow safe and unobstructed access of a vehicle of the Fire Services Department to the building; and

(b) to provide for the safe operation of such a vehicle, in the event of a fire or other emergency.

(2) The design and construction of an emergency vehicular access shall be in accordance with such requirements as may be specified by the Building Authority from time to time having regard to the intended use of the building.

(3) The Building Authority may exempt a building from any or all of such requirements on design and construction if the Building Authority is satisfied that compliance with the requirement or requirements is—

(a) impracticable having regard to the topographical features of the area on which the building is situated; or

(b) unwarranted on the ground that the purpose for which the building is to be used constitutes a low fire risk.

(4) A building in respect of which an exemption under paragraph (3) is in force shall comply with such other fire safety measures as may be specified by the Building Authority for the purpose of ensuring that the safety of the building would not be prejudiced by the exemption.”.

Consequential Amendments

Prevention of Bribery Ordinance

61. Public Bodies

Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201) is amended by adding—

“102. Geotechnical Engineers Registration Committee.”.

Electronic Transactions (Exclusion) Order

62. Provisions excluded from application of section 6 of Ordinance

Schedule 2 to the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B) is amended—

(a) by repealing item 4;

(b) in item 5, in column 3, by repealing “(2) and (3)” and substituting “(2), (3) and (5)”.