

BUILDINGS (AMENDMENT) BILL 2007

COMMITTEE STAGE

Amendments to be moved by the Secretary for Development

<u>Clause</u>	<u>Amendment Proposed</u>
3(1)(a)	<p>In the proposed definition of “contraventions of the provisions of this Ordinance” –</p> <ul style="list-style-type: none"><li>(a) in paragraph (b), by deleting “prescribed requirement minor works” and substituting “minor works commenced under the simplified requirements”;</li><li>(b) in paragraphs (c) and (d) –<ul style="list-style-type: none"><li>(i) by deleting “prescribed requirement minor works” and substituting “minor works commenced under the simplified requirements”;</li><li>(ii) by deleting “the prescribed” and substituting “the simplified”.</li></ul></li></ul>
3(1)	<p>By adding –</p> <p>“(ba) in the Chinese text, in the definition of “臨街處所擁有人”, by repealing the full stop and substituting a semicolon;”.</p>
3(1)(c)	<p>(a) By deleting the proposed definitions of “prescribed requirement minor works” and “prescribed requirements”.</p>

ALL PASSED

(b) By adding –

““electronic record” (電子紀錄) has the same meaning as in section 2(1) of the Electronic Transactions Ordinance (Cap. 553);

“prescribed building professional” (訂明建築專業人士) means an authorized person, a registered structural engineer or a registered geotechnical engineer;

“simplified requirements” (簡化規定) means any requirements prescribed in the regulations as simplified requirements for the purposes of this definition;

“specified document” (指明文件) means –

(a) a document made, issued or given, or a plan submitted to or approved by the Building Authority, under or for the purposes of this Ordinance or the Buildings Ordinance 1935 (18 of 1935); or

(b) any part of the document or plan;

“specified document record” (指明文件紀錄) means –

(a) a record of a specified document made under section 36C(a);

(b) an electronic record made under section 36C(b); or

(c) a copy of an electronic record made under section 36C(c);”.

3(2)

In the proposed section 2(1A), by deleting “prescribed requirement minor works” and substituting “minor works

**ALL PASSED**

commenced under the simplified requirements”.

3(2)

By adding after the proposed section 2(1A) –

“(1B) For the purposes of this Ordinance, minor works that are commenced or carried out without the approval and consent of the Building Authority under section 14(1) are to be regarded as minor works commenced under the simplified requirements if –

- (a) a prescribed building professional or a prescribed registered contractor has been appointed in respect of the works; or
- (b) the works are commenced or carried out by a prescribed registered contractor.”.

6(2)

In the proposed section 4(1A), by deleting “prescribed requirement minor works” and substituting “minor works commenced under the simplified requirements”.

7

(a) By deleting the proposed section 4A and substituting –

**“4A. Appointment of prescribed building professionals: minor works commenced or carried out without approval and consent**

- (1) This section applies to minor works –
  - (a) that are commenced or carried out without the approval and consent of the Building Authority under section 14(1); and

**ALL PASSED**

(b) in respect of which one or more prescribed building professionals are required to be appointed by the regulations.

(2) If minor works to which this section applies have been commenced or carried out and the person who arranged for the works to be commenced or carried out has knowingly failed to appoint the prescribed building professional or the prescribed building professionals (as the case may be) required by the regulations to be appointed in respect of the minor works concerned, that person commits an offence.

(3) For the purposes of subsection (2), a person who has appointed another person to arrange for the commencement or carrying out of minor works is not to be regarded as a person who arranged for the commencement or carrying out of minor works.

(4) Subject to subsection (5), if a prescribed building professional appointed in respect of the minor works to which this section applies is unable to act, whether by reason of the termination of his appointment or for any other reason, or is unwilling to act, a person other than a prescribed building professional required by the regulations to be appointed in respect of the minor works concerned shall not be appointed in his place.

(5) Where a prescribed building professional appointed in respect of the minor works to which this section applies is temporarily unable to act by reason of his illness or absence from Hong Kong, that prescribed building professional may nominate another prescribed building professional required by the regulations to be

**ALL PASSED**

appointed in respect of the minor works concerned to act in his place for the period of such illness or absence.”.

(b) By deleting the proposed section 4B and substituting –

**“4B. Duties of prescribed building professional appointed or nominated in respect of minor works commenced under simplified requirements**

(1) A prescribed building professional appointed or nominated in respect of minor works commenced under the simplified requirements shall, in relation to the works, comply with the simplified requirements.

(2) Without affecting the generality of subsection (1), the prescribed building professional shall also –

- (a) supervise in accordance with the supervision plan the carrying out of minor works commenced under the simplified requirements;
- (b) supervise in the manner prescribed in the simplified requirements the carrying out of minor works commenced under the simplified requirements;
- (c) notify the Building Authority of any contravention of the regulations which would result from the carrying out of any works shown in the plan required to be submitted to the Building

**ALL PASSED**

Authority in respect of minor works commenced under the simplified requirements;

- (d) ensure that –
  - (i) fire service installations or equipment in relation to minor works commenced under the simplified requirements are provided in accordance with the Code of Practice referred to in section 16(1)(b)(ii); and
  - (ii) the carrying out of minor works commenced under the simplified requirements does not result in the relevant minimum requirements under the Code not being complied with in respect of the fire service installations or equipment;
- (e) ensure that the carrying out of minor works commenced under the simplified requirements would not contravene –
  - (i) any enactment; and
  - (ii) any approved or draft plan prepared under the Town

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Planning Ordinance (Cap. 131);

- (f) if minor works commenced under the simplified requirements are carried out within a comprehensive development area of an approved or draft plan prepared under the Town Planning Ordinance (Cap. 131), ensure that the carrying out of the works would not contravene the master lay-out plan approved by the Town Planning Board under section 4A(2) of that Ordinance; and
- (g) comply generally with this Ordinance.”.

9(1)(b) In the proposed section 7(1)(ba) and (bb), by deleting “prescribed requirement minor works” and substituting “minor works commenced or to be commenced under the simplified requirements”.

9(2) By deleting paragraph (b) and substituting –

“(b) by adding –

- “(f) has certified minor works commenced under the simplified requirements that have been carried out in contravention of this Ordinance;
- (g) has supervised minor works commenced under the simplified requirements that

**ALL PASSED**

have been carried out in such a manner that they have caused injury to a person (whether or not while under such supervision);

- (h) has certified building works (other than minor works) as if it were minor works commenced under the simplified requirements;
- (i) has supervised building works (other than minor works) as if it were minor works commenced under the simplified requirements; or
- (j) has not carried out his duties under section 4B(2)(d), (e) or (f) in respect of minor works commenced under the simplified requirements.”.”.

9(3)(a) In section 7(2), by deleting “prescribed requirement minor works” and substituting “minor works commenced or to be commenced under the simplified requirements”.

9(3)(c) In the proposed section 7(2)(bb), by deleting “prescribed requirement minor works” and substituting “minor works commenced or to be commenced under the simplified requirements”.

13 By deleting the proposed section 9AA and substituting –

**“9AA. Appointment and duties of  
prescribed registered  
contractors: minor works**

**ALL PASSED**



(1) This section applies both to minor works that are commenced or carried out with the approval and consent of the Building Authority under section 14(1) and to minor works that are commenced or carried out without that approval and consent.

(2) If minor works to which this section applies have been commenced or carried out and the person who arranged for the works to be commenced or carried out has knowingly failed to appoint a prescribed registered contractor required by the regulations to be appointed in respect of the minor works concerned, that person commits an offence.

(3) For the purposes of subsection (2), a person who has appointed another person to arrange for the commencement or carrying out of minor works is not to be regarded as a person who arranged for the commencement or carrying out of minor works.

(4) A prescribed registered contractor appointed to carry out minor works commenced otherwise than under the simplified requirements shall –

- (a) provide continuous supervision in relation to the carrying out of the minor works in accordance with his supervision plan;
- (b) notify the Building Authority of any contravention of the regulations which would result from the carrying out of any works shown in the plan approved by the Building Authority for the minor works; and

**ALL PASSED**

(c) comply generally with this Ordinance.

(5) A prescribed registered contractor appointed to carry out minor works commenced under the simplified requirements shall, in relation to the works, comply with the simplified requirements.

(6) Without affecting the generality of subsection (5), the prescribed registered contractor appointed to carry out minor works commenced under the simplified requirements shall also –

(a) provide continuous supervision in relation to the carrying out of the minor works commenced under the simplified requirements;

(b) notify the Building Authority of any contravention of the regulations which would result from the carrying out of any works shown in the plan required to be submitted to the Building Authority in respect of the minor works commenced under the simplified requirements; and

(c) comply generally with this Ordinance.”.

15(1)(d) In the proposed section 13(1)(d), (e) and (f), by deleting “prescribed requirement minor works” and substituting “minor works commenced under the simplified requirements”.

15(2) By deleting paragraph (b) and substituting –

**ALL PASSED**

“(b) by adding –

- “(f) has certified minor works commenced under the simplified requirements that have been carried out in contravention of this Ordinance;
- (g) has supervised minor works commenced under the simplified requirements that have been carried out in such a manner that they have caused injury to a person (whether or not while under such supervision);
- (h) has carried out minor works commenced under the simplified requirements in such a manner that they have caused injury to a person;
- (i) has carried out building works (other than minor works) under the simplified requirements as if it were minor works commenced under the simplified requirements; or
- (j) has certified building works (other than minor works) as if it were minor works commenced under the simplified requirements.”.”.

15(3) In the proposed section 13(4)(d), by deleting “prescribed requirement minor works” and substituting “minor works commenced under the simplified requirements”.

16 By deleting the proposed section 14AA and substituting –

**ALL PASSED**

**“14AA. Approval and consent not required for minor works**

Section 14(1) does not apply in respect of minor works commenced under the simplified requirements.”.

- 18 By deleting the clause.
- 21(1) By deleting **“prescribed requirement minor works”** and substituting **“minor works commenced under simplified requirements”**.
- 21(2) In the proposed section 24(1A), by deleting **“prescribed requirement minor works”** and substituting **“minor works commenced under the simplified requirements”**.
- 22 In the proposed section 24AA –
- (a) in the heading, by deleting **“prescribed requirement minor works”** and substituting **“minor works commenced under simplified requirements”**;
  - (b) in subsection (1), by deleting **“prescribed requirement minor works”** and substituting **“minor works commenced under the simplified requirements”**.
- New By adding –
- “23A. Sections repealed**
- Sections 36, 36A and 36B are repealed.”.
- New By adding –

**ALL PASSED**

**“23B. Sections added**

The following are added –

**“36C. Powers to make records of specified documents and copy records**

The Building Authority or a person authorized by the Building Authority may –

- (a) make a record in the form of –
  - (i) a paper document;
  - (ii) a microfilm; or
  - (iii) an electronic record, of any specified document;
- (b) convert a record in the form of a paper document or a microfilm made under paragraph (a) into an electronic record; or
- (c) make a copy of a record made under paragraph (a) or (b).

**36D. Disposal of documents**

Where it is not necessary or desirable to maintain a specified document in the form in which it was submitted to or approved by the Building Authority, the document may be destroyed or disposed of after a specified document record of it is made.

ALL PASSED

**36E. Specified document records to be treated as specified documents**

A specified document record is to be treated for all purposes as the specified document from which the specified document record is made.

**36F. Making available specified document records to public through electronic networks**

The Building Authority or a person authorized by the Building Authority may make a specified document record available for inspection by any person through the Internet, an intranet or a similar electronic network.

**36G. Issue, certification and inspection of copies, etc. of specified documents or specified document records**

(1) The Building Authority or a person authorized by the Building Authority, may, on the payment of the prescribed fee, issue to a person a copy, a print or an extract of or from a specified document or a specified document record, to facilitate the ascertaining by that person of any matter mentioned in subsection (4).

(2) The Building Authority or a person authorized by the Building Authority, may, on the payment of the prescribed fee, issue to a person a copy, a print or an extract of or from a specified

**ALL PASSED**

document or a specified document record, that is certified under section 36H, to facilitate the ascertaining by that person of any matter mentioned in subsection (4).

(3) The Building Authority or a person authorized by the Building Authority, may, on the payment of the prescribed fee, make available for inspection –

- (a) at any reasonable time, a specified document or a specified document record, at a place specified by the Building Authority or by a person authorized by the Building Authority; or
- (b) a specified document record by the means mentioned in section 36F,

to facilitate the ascertaining by any person of any matter mentioned in subsection (4).

(4) The matters referred to in subsections (1), (2) and (3) are –

- (a) matters relating to the construction of any building or the carrying out of any building works or street works;
- (b) whether a building, building works or street works have been completed or carried out in compliance with the

ALL PASSED

- provisions of this Ordinance or any other enactment; and
- (c) any other matter that the Building Authority considers appropriate to be made available in the interest of the public.

**36H. Power to certify copies, etc. of specified documents or specified document records**

The Building Authority or a public officer authorized by the Building Authority may certify a copy, a print or an extract of or from a specified document or a specified document record as a true copy, print or extract of or from the specified document or the specified document record.

**36I. Admissibility in evidence of copies, etc.**

(1) A copy, a print or an extract of or from a specified document or a specified document record that purports to be a true copy, print or extract of or from the specified document or the specified document record, is admissible in evidence in criminal or civil proceedings before any court on its production without further proof if it is certified under section 36H.

**ALL PASSED**



(2) The court before which the certified copy, print or extract is produced shall, unless there is evidence to the contrary, presume that –

(a) the certification or signature is made by the Building Authority or a public officer authorized by the Building Authority; and

(b) it is a true copy, print or extract.

(3) Nothing in this section –

(a) affects any claim of the Government to withhold the original of any specified document or a specified document record on the ground that its production would be contrary to the public interest; or

(b) affects the admissibility of any evidence which would be admissible apart from the provisions of this section.”.”.

24(1)(d)

(a) In the proposed section 38(1)(ka)(iii), by deleting “an authorized person, a registered structural engineer and a registered geotechnical engineer” and substituting “prescribed building professionals”.

(b) In the proposed section 38(1)(ka)(iv), by deleting “and”.

(c) By deleting the proposed section 38(1)(kb) and substituting –

**ALL PASSED**

- “(kb) the prescription of any requirements as simplified requirements for the purposes of the definition of “simplified requirements” in section 2(1), including –
- (i) the duties of any prescribed building professionals and prescribed registered contractors, appointed in respect of minor works commenced under the simplified requirements (whether to be performed before or after the commencement of the minor works);
  - (ii) the requirements for the commencement, carrying out, completion and certification of minor works under the simplified requirements; and
  - (iii) the requirements for the submission or delivery of prescribed plans, certificates, notices or other documents to the Building Authority or other persons;”.
- (d) In the proposed section 38(1)(kc), by deleting “prescribed” and substituting “simplified”.
- (e) In the proposed section 38(1), by adding –
- “(kca) matters relating to the display or indication of information relating to –
- (i) the registration number of any prescribed registered contractor; and
  - (ii) the class, type and item of the minor works in respect of which any prescribed registered contractor is registered,
- in order to facilitate any member of the public to ascertain whether he is, in relation to any matter

**ALL PASSED**

connected with any activity under this Ordinance, dealing with a contractor registered under this Ordinance;”.

26

By deleting the proposed section 39C(4) and substituting –

“(4) Where the person appointed under subsection (2) considers that for the safety of the prescribed building or building works, it is necessary to carry out minor works to alter, rectify or reinforce the prescribed building or building works, such works are to be carried out by a prescribed registered contractor under the simplified requirements.”.

27(1)

By deleting the proposed section 40(1AA) and substituting –

“(1AA) Any person who knowingly contravenes section 14(1) in respect of building works (other than minor works) or street works 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.

(1AB) Any person who commits an offence under section 4A(2) or 9AA(2) shall be liable on conviction to a fine at level 6.”.

27(9)(c)

In the proposed section 40(2A)(ba), by deleting “prescribed” and substituting “simplified”.

ALL PASSED

- 27(10) By deleting the proposed section 40(2AAAA) and substituting –  
“(2AAAA) Any prescribed building professional who contravenes section 4B(2)(c), or any prescribed registered contractor who contravenes section 9AA(4)(b) or (6)(b), shall be guilty of an offence and shall be liable on conviction to a fine at level 5.”.
- 27(12)(b) In the proposed section 40(2AC)(b), by deleting “, piling works”.
- 27(13)(b) In the proposed section 40(2B)(d), by deleting “, piling works”.
- 27(15) (a) In the proposed section 40(2F), by deleting “an authorized person, a registered structural engineer and a registered geotechnical engineer” and substituting “a prescribed building professional”.
- (b) In the proposed section 40(2G), by deleting “registered general building contractor, a registered specialist contractor or a registered minor works contractor” and substituting “prescribed registered contractor”.
- 28(1) By deleting the proposed section 41(3) and substituting –  
“(3) Building works (other than drainage works, ground investigation in the scheduled areas, site formation works or minor works) in any building are exempt from sections 4, 9, 9AA, 14(1) and 21 if the works do not involve the structure of the building.”.
- 28(3) By deleting the proposed section 41(3B) and (3C) and substituting –

ALL PASSED

“(3B) Designated exempted works that are prescribed in the regulations are exempt from sections 4, 9, 9AA, 14(1) and 21.

(3C) Drainage works (other than minor works) in any building are exempt from sections 4, 9 and 14(1) if the works do not involve –

- (a) the structure of the building;
- (b) any drain or sewer into which there is discharged, or into which it is intended to discharge, any trade effluent, chemical refuse, waste steam, petroleum spirit, carbide of calcium, acid, grease or oil;
- (c) altering any manhole at which any drain or sewer from the building is connected with a public sewer;
- (d) altering any septic tank or cesspool;
- (e) making a direct or indirect connection of an additional drain or sewer to a septic tank or cesspool; or
- (f) underground drainage works in a scheduled area that is described as area number 3 in the Fifth Schedule.”.

New

By adding –

**“41A. Fees**

- (1) Regulation 42 is amended, in the Table of Fees, in item 10(a) –

**ALL PASSED**

(a) by repealing –

“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 –”

and substituting –

“For issue under section 36G(2) of the Ordinance of a certified copy, print or extract of or from a document made, issued or given under or for the purposes of the Ordinance or the Buildings Ordinance 1935 (18 of 1935), or a certified copy, print or extract of or from a specified document record that is made from the document, that is in –”;

(b) by repealing “pursuant to section 36(2A)(b)” where it twice appears and substituting “or record pursuant to section 36G(3)”.

(2) Regulation 42 is amended, in the Table of Fees, in item 10(b) –

(a) by repealing –

“For issue under 36(2) of the Ordinance of a certified copy, print or extract of or from any plan which is recorded in –”

and substituting –

**ALL PASSED**

“For issue under section 36G(2) of the Ordinance of a certified copy, print or extract of or from a plan submitted to or approved by the Building Authority under or for the purposes of the Ordinance or the Buildings Ordinance 1935 (18 of 1935), or a certified copy, print or extract of or from a specified document record that is made from the plan, that is in –”;

(b) by repealing “pursuant to section 36(2A)(b)” where it twice appears and substituting “or record pursuant to 36G(3)”.

(3) Regulation 42 is amended, in the Table of Fees, in item 11(a) –

(a) by repealing –

“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 –”

and substituting –

“For issue under section 36G(1) of the Ordinance of a copy, a print or an extract of or from a document made, issued or given under or for the purposes of the Ordinance or the Buildings Ordinance 1935 (18 of 1935), or a copy, a print or an

**ALL PASSED**

extract of or from a specified document record that is made from the document, that is in –”;

- (b) by repealing “pursuant to section 36(2A)(b)” where it twice appears and substituting “or record pursuant to 36G(3)”.

(4) Regulation 42 is amended, in the Table of Fees, in item 11(b) –

- (a) by repealing –

“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 –”

and substituting –

“For issue under section 36G(1) of the Ordinance of a copy, a print or an extract of or from a plan submitted to or approved by the Building Authority under or for the purposes of the Ordinance or the Buildings Ordinance 1935 (18 of 1935), or a copy, a print or an extract of or from a specified document record that is made from the plan, that is in –”;

- (b) by repealing “pursuant to section 36(2A)(b)” where it twice appears and substituting “or record pursuant to 36G(3)”.

**ALL PASSED**



(5) Regulation 42 is amended, in the Table of Fees, in item 12(a) –

(a) by repealing –

“For inspection under section 36(2A)(b) of the Ordinance of a plan or document which is recorded in –”

and substituting –

“For inspection under section 36G(3) of the Ordinance of a specified document or a specified document record, that is in –”;

(b) by repealing “plans or documents” wherever it appears and substituting “specified documents or specified document records.”.

42

In the proposed regulation 48 –

(a) in the heading, by deleting “**prescribed requirement minor works**” and substituting “**minor works commenced under simplified requirements**”;

(b) by deleting “prescribed requirement minor works” and substituting “minor works commenced under the simplified requirements”.

New

By adding in Part 4 –

**“Buildings Ordinance (Application to the New Territories) Ordinance**

**44A. Effect of certificate of exemption**

**ALL PASSED**

Section 7(1)(a) of the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121) is amended by adding “, 9AA” after “9”.

ALL PASSED