

**立法會**  
**Legislative Council**

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From : Clerk to the Legislative Council

To : All Members of the Legislative Council

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**Council meeting of 20 May 2009**

**Proposed resolution under section 34(2) of the  
Interpretation and General Clauses Ordinance**

I forward for Members' consideration a proposed resolution which the Secretary for Development will move at the Council meeting of 20 May 2009 under section 34(2) of the Interpretation and General Clauses Ordinance relating to the Building (Minor Works) Regulation. The President has directed that "it be printed in the terms in which it was handed in" on the Agenda of the Council.

2. The speech, in both English and Chinese versions, which the Secretary for Development will deliver when moving the proposed resolution, is also attached.

( Mrs Justina LAM )  
for Clerk to the Legislative Council

Encl.

## INTERPRETATION AND GENERAL CLAUSES ORDINANCE

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### RESOLUTION

(Under section 34(2) of the Interpretation and General Clauses  
Ordinance (Cap. 1))

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### BUILDING (MINOR WORKS) REGULATION

RESOLVED that the Building (Minor Works) Regulation, published in the  
Gazette as Legal Notice No. 51 of 2009 and laid on the table of the  
Legislative Council on 1 April 2009, be amended –

- (a) by repealing section 7(1)(a) and substituting –
  - “(a) 1 person nominated by the Building Authority  
who, in the opinion of the Authority, has  
knowledge and experience in minor works;”;
- (b) in section 8 –
  - (i) by repealing “Part 4” and substituting “Parts 4 and  
10”;
  - (ii) in paragraph (c), by repealing “and”;
  - (iii) in paragraph (d), by repealing the full stop and  
substituting “; and”;
  - (iv) by adding –

- “(e) reviewing the decisions of the Authority or recommendations of other Registration Committees under section 26.”;
- (c) by repealing section 12(1) and substituting –
- “(1) The Building Authority may refer, either in whole or in part, an application under section 10(1)(b) to a Registration Committee for recommendation if the Authority considers it appropriate to do so after taking into account –
- (a) the nature of the type or types of minor works under one or more classes to which the application relates; or
- (b) any matter that is relevant for determining whether the applicant complies with the requirements set out in subsections (5) and (6).”;
- (d) in section 12, by adding –
- “(2A) If the Building Authority considers it appropriate to refer the application to a Registration Committee, the Authority must direct the Committee to meet, within 3 months from receiving the application, to consider the application.”;
- (e) in section 12(3), by repealing “refers the application” and substituting “refers an application”;
- (f) by repealing section 12(3)(d) and substituting –
- “(d) defer the determination of the application for a period not exceeding 6 months, and –

- (i) refer the application again to a Registration Committee for recommendation after that period on the request of the applicant; and
  - (ii) direct the Committee to meet, within 3 months from receiving the request, to consider the application.”;
- (g) in section 14(3)(a), by adding “or (2B)(a) or (b)” after “or (b)”;
- (h) by repealing section 15(1) and (2) and substituting –
  - “(1) The Building Authority may refer, either in whole or in part, an application under section 14(1) to a Registration Committee for recommendation if the Authority considers it appropriate to do so after taking into account –
      - (a) the nature of the type or types of minor works under one or more classes to which the application relates; or
      - (b) any matter that is relevant for determining whether the applicant complies with the requirements set out in subsection (3).
    - (2) If the Building Authority does not refer the application to a Registration Committee, the Authority must, within 3 months from receiving the application –
      - (a) allow the application;
      - (b) allow the application in part and refuse the remaining part; or

(c) refuse the application.

(2A) If the Building Authority considers it appropriate to refer the application to a Registration Committee, the Authority must direct the Committee to meet, within 3 months from receiving the application, to consider the application.

(2B) If the Building Authority refers an application to a Registration Committee, the Authority must, within 3 months from the meeting of the Committee at which the application is considered –

- (a) allow the application;
- (b) allow the application in part and refuse the remaining part; or
- (c) refuse the application.”;

- (i) in section 15(3) and (4), by adding “or (2B)(a) or (b)” after “or (b)”;
- (j) in section 15(5), by adding “or (2B)(b) or (c)” after “or (c)”;
- (k) in section 17(1)(b), by adding “or (2B)(c)” after “15(2)(c)”;
- (l) in section 17(3), in the Chinese text, by repealing “第 15(5)(b)款” and substituting “第 15(5)(b)條”;
- (m) by repealing section 19(1) and (2) and substituting –

“(1) The Building Authority may refer, either in whole or in part, an application under section 18(1) to a Registration Committee for recommendation if the Authority considers it appropriate to do so after taking into account –

- (a) the nature of the type or types of minor works under one or more classes to which the application relates; or
- (b) any matter that is relevant for determining whether the applicant complies with the requirements set out in subsection (3).

(2) If the Building Authority does not refer the application to a Registration Committee, the Authority must, within 3 months from receiving the application –

- (a) allow the application;
- (b) allow the application in part and refuse the remaining part; or
- (c) refuse the application.

(2A) If the Building Authority considers it appropriate to refer the application to a Registration Committee, the Authority must direct the Committee to meet, within 3 months from receiving the application, to consider the application.

(2B) If the Building Authority refers an application to a Registration Committee, the Authority must, within 3 months from the meeting of the Committee at which the application is considered –

- (a) allow the application;
- (b) allow the application in part and refuse the remaining part; or
- (c) refuse the application.”;

- (n) in section 19(3) and (4), by adding “or (2B)(a) or (b)” after “or (b)”;
- (o) in section 19(5), by adding “or (2B)(b) or (c)” after “or (c)”;
- (p) by repealing section 23(1) and substituting –
  - “(1) The Building Authority may refer, either in whole or in part, an application under section 21(2) to a Registration Committee for recommendation if the Authority considers it appropriate to do so after taking into account –
    - (a) the nature of the type or types of minor works under one or more classes to which the application relates; or
    - (b) any matter that is relevant for determining whether the applicant complies with the requirements set out in subsections (5) and (6).”;
- (q) in section 23, by adding –
  - “(2A) If the Building Authority considers it appropriate to refer the application to a Registration Committee, the Authority must direct the Committee to meet, within 3 months from receiving the application, to consider the application.”;
- (r) in section 23(3), by repealing “refers the application” and substituting “refers an application”;
- (s) by repealing section 23(3)(d) and substituting –
  - “(d) defer the determination of the application for a period not exceeding 6 months, and –

- (i) refer the application again to a Registration Committee for recommendation after that period on the request of the applicant; and
  - (ii) direct the Committee to meet, within 3 months from receiving the request, to consider the application.”;
- (t) by repealing section 25(1) and substituting –
  - “(1) The Building Authority may refer, either in whole or in part, an application under section 24(1) to a Registration Committee for recommendation if the Authority considers it appropriate to do so after taking into account –
    - (a) the nature of the type or types of minor works under one or more classes to which the application relates; or
    - (b) any matter that is relevant for determining whether the applicant complies with the requirements set out in subsections (5) and (6).”;
- (u) in section 25, by adding –
  - “(2A) If the Building Authority considers it appropriate to refer the application to a Registration Committee, the Authority must direct the Committee to meet, within 3 months from receiving the application, to consider the application.”;
- (v) in section 25(3), by repealing “refers the application” and substituting “refers an application”;



- (w) by repealing section 25(3)(d) and substituting –
- “(d) defer the determination of the application for a period not exceeding 6 months, and –
- (i) refer the application again to a Registration Committee for recommendation after that period on the request of the applicant; and
- (ii) direct the Committee to meet, within 3 months from receiving the request, to consider the application.”;
- (x) in Part 4, by repealing Division 6 and substituting –

**“Division 6 – Reviews and Appeals**

**26. Review of decisions of Building Authority or recommendations of Minor Works Contractors Registration Committee**

- (1) A person who is aggrieved by –
- (a) a decision of the Building Authority to refuse the person’s application under section 11, 12, 15, 19, 22, 23, 25 or 65;
- (b) a decision of the Building Authority to defer the determination of the person’s application under section 12, 23 or 25; or
- (c) a recommendation of a Registration Committee made in respect of the person’s

application for the purposes of section 12, 15, 19, 23 or 25, may request a Registration Committee to review the decision or recommendation.

- (2) The request must –
  - (a) be in the specified form;
  - (b) be accompanied by the prescribed fee;
  - (c) state the substance of the matter and reasons for requesting the review; and
  - (d) be submitted to the Building Authority within 28 days from the date on which the reasons for the decision, or the decision to which the recommendation relates, were given to the person under section 11(5), 12(8), 15(5)(a), 19(5), 22(5), 23(8), 25(8) or 65(6).

(3) The request does not affect the operation of the decision or the effect of the recommendation.

(4) On receiving the request, the Building Authority must direct a Registration Committee to meet, within 3 months from receiving the request, to review the decision or recommendation.

(5) The Registration Committee must not consist of any member who has considered the application to which the decision or recommendation relates.

(6) In reviewing the decision or recommendation, the Registration Committee may consider any information or documentary proof that was not provided to the Building Authority or the Registration Committee concerned when the decision or recommendation was made.

(7) The Registration Committee may advise the Building Authority to –

- (a) confirm the decision, or the decision to which the recommendation relates; or
- (b) substitute the decision, or the decision to which the recommendation relates, with such other decision as the Committee thinks fit.

(8) Within 3 months from receiving the advice of the Registration Committee in respect of the request, the Building Authority must –

- (a) having regard to the advice –
  - (i) confirm the decision; or
  - (ii) subject to subsection (9), substitute the decision with such other decision as the Authority thinks fit; and
- (b) notify the person making the request in writing of –
  - (i) the advice of the Committee and the

reasons for the advice;  
and

- (ii) the decision of the Authority under paragraph (a) and the reasons for the decision.

(9) The Building Authority may make a decision to allow the application to which the request relates only if the Registration Committee so advises.

**26A. Appeal against advice of Minor Works Contractors Registration Committee or decisions of Building Authority under section 26**

(1) A person who is aggrieved by any advice of a Registration Committee, or a decision of the Building Authority, made in respect of the person's request under section 26 may appeal to the Court of First Instance.

(2) The practice for the appeal is subject to any rules of court made under the High Court Ordinance (Cap. 4).”.

**Meeting of Legislative Council on 20 May 2009**

**Motion to Amend  
Building (Minor Works) Regulation  
made under  
Interpretation and General Clauses Ordinance**

**Speech of Secretary for Development**

President,

I rise to move the motion on the Agenda to amend the Building (Minor Works) Regulation.

First of all, I would like to thank Ir the Honourable Raymond HO, the Chairman of the Subcommittee, and other Members of the Subcommittee, who have conducted a number of meetings to discuss the Regulation and given us much useful advice. The Subcommittee has also invited the relevant bodies from the industry as well as stakeholders to express their views. Having carefully considered the comments of the Subcommittee, the Administration proposes to amend the Regulation in order to further refine the relevant provisions.

The purpose of the Building (Minor Works) Regulation is to stipulate the modus operandi of the minor works control system, the framework of which has been set out in the Buildings (Amendment) Ordinance 2008 passed by the Legislative Council in June 2008, to facilitate the public to carry out small-scale building works through simplified statutory procedures.

All minor works will be classified by the Regulation into three classes according to their nature, scale, complexity as well as the risk to safety they pose. To carry out minor works under the simplified requirements stipulated in the Regulation, prior approval and consent of the Building Authority will be dispensed with. Members of the public can appoint technical personnel of different qualifications to carry out the works according to their complexity. The Buildings Department will establish a register of "registered minor works contractors" under the new system to enable existing practitioners with adequate qualifications or experience to register as minor works contractors. The qualifications and procedures for registration as contractors as well as their duties are stipulated in the Regulation.

Detailed specifications of 118 items of minor works that correspond to the specialization of works in the industry will be set out in the Regulation so that the practitioners can register as minor works contractors according to their qualifications and experience. The Regulation also stipulates the modus operandi of the implementation of the "Household Minor Works Validation Scheme". Through this Scheme, members of public may, after inspection and safety certification by registered professionals, retain for continued use some features which are of practical household needs but are unauthorized structures erected before the introduction of the minor works control system, including supporting frames for air conditioners, drying racks and small canopies.

Most provisions in the Regulation are modeled on the existing Buildings Ordinance and its relevant subsidiary regulations. We made such arrangement because minor works and general building works only differ in terms of scale and complexity, but have very similar professional and technical requirements on other aspects. Nevertheless, the Subcommittee suggested that, for minor works practitioners who are in smaller

scale, the Regulation should provide for additional measures to meet with the need of the industry. We accept the comments of the Subcommittee and propose the following amendments in relation to the registration of minor works contractors to further refine the arrangements under the Regulation:

- (1) We will clarify in section 12 of the Regulation the criteria which the Building Authority will consider in referring an application to the “Minor Works Contractor Registration Committee”, and stipulate a time limit of 3 months for the referral. The same amendment will also be made to other similar clauses in sections 15, 19, 23 and 25. These provisions cover applications for renewal, restoration, inclusion of additional class/ type/ item of minor works, and inclusion of additional “authorized signatory”. We will also clarify in sections 15 and 19 that the time limit for the Building Authority to consider applications for renewal and restoration of names in the register will be 3 months;
- (2) We will amend section 7(1)(a) of the Regulation to stipulate the criteria which the Building Authority will consider in appointing professionals as members of the Registration Committee;
- (3) As regards appeal and review against refusal of registration, the Subcommittee raised concern over the fact that small-scale minor works practitioners might not be able to utilize the existing general channels as they had to bear the cost of lodging an appeal to the Court of First Instance. For this, we will amend section 26 of the Regulation and establish a simpler review mechanism. Upon request of a person whose application was refused, the Buildings Department will refer the application to a separate and newly established Registration Committee

which will take a second look at the case. The applicant may take the opportunity to supplement additional information to support his case. We have also considered the views of the Subcommittee, and will reduce the time to hold a review meeting from 4 months to 3 months. If the applicant is still aggrieved by the result of the review, he may lodge an appeal to the Court of First Instance under the new section 26A; and

- (4) We will make corresponding amendments in relation to the aforementioned provisions as well as some textual amendments.

We appreciate that the minor works control system is a new concept and it takes time for the public to understand how to make effective use of the system. To publicize and promote the minor works control system will be one of the Buildings Department's major foci of work in the coming year. The Buildings Department will mount an extensive public education campaign to promote the system to both the general public and the industry. The Department will also maintain close liaison with the industry and minor works practitioners, both during the registration stage and after the implementation of the system, to provide necessary assistance and support, as well as to continuously review and improve the modus operandi of the system.

The Subcommittee further pointed out that the Administration should pay attention to the problem of individual owners carrying out building works in common areas of buildings without obtaining the consent of other owners. Although the Buildings Ordinance does not cover legal matters concerning building management, we will include a remark in the specified forms to be submitted to the Buildings Department for the commencement or completion of minor works to remind the



persons concerned that they should consult other co-owners before conducting minor works in common areas and be mindful of the civil liabilities under the deeds of mutual covenant.

To conclude, the minor works control system could facilitate members of the public to carry out minor works in a much simpler and quicker manner and enhance building safety in Hong Kong. The Building (Minor Works) Regulation has been scrutinized in detail by the Subcommittee, and we have adopted comments of the Subcommittee and made corresponding amendments. Such amendments are supported by the Subcommittee.

I appeal to Members for support of the motion. I move that the Resolution be passed. Thank you, President.

- End -