

LEGISLATIVE COUNCIL BRIEF

Buildings Ordinance
(Cap. 123)

**Buildings Legislation (Amendment) Ordinance 2012
(Commencement) Notice**

Building (Minor Works) (Amendment) Regulation 2013

**SUBSIDIARY LEGISLATION FOR INTRODUCING
THE SIGNBOARD CONTROL SYSTEM**

INTRODUCTION

For the purpose of introducing the Signboard Control System (“SBCS”), the Secretary for Development has made the Building (Minor Works) (Amendment) Regulation 2013 (“the Amendment Regulation”) (**Annex A**) under section 38 of the Buildings Ordinance (Cap. 123) (“BO”), and the Buildings Legislation (Amendment) Ordinance 2012 (Commencement) Notice 2013 (“the Commencement Notice”) (**Annex B**) to bring the provisions related to the SBCS in the Buildings Legislation (Amendment) Ordinance 2012 (“BL(A)O”) into operation.

BACKGROUND AND JUSTIFICATIONS

Measures to Enhance Building Safety Related to Unauthorised Signboards

2. Following the completion of a comprehensive review on the Government’s building safety policy and measures, the Chief Executive announced in his Policy Address in October 2010 that the Government would adopt a new multi-pronged approach, covering legislation, enforcement, support and assistance to owners as well as publicity and public education, to enhance building safety in Hong Kong. We have since been following that up. On the legislation front, we have introduced a number of measures to enhance building safety through the BL(A)O which was enacted by the Legislative Council (“LegCo”) in July 2012. One of the legislative amendments in the BL(A)O was the enabling provisions for the introduction of a statutory regime, i.e. the SBCS, to control existing unauthorised signboards

through an extension of the scope of works covered by the validation scheme under the Minor Works Control System (“MWCS”). With the enabling provisions now in place, we now set out the details of the SBCS in a subsidiary legislation.

Simplified Requirements under the MWCS

3. Before the implementation of the MWCS, all building works, with the exception of the exempted works as set out in section 41 of the BO, require the prior approval by the Building Authority (“BA”) of plans and consent to commencement of building works before works are to be carried out. Otherwise, regardless of the scale of such works, they will be regarded as unauthorised building works (“UBWs”) and subject to enforcement action by the Buildings Department (“BD”).

4. The MWCS, which came into full operation on 31 December 2010, aims to provide an alternative to the above statutory procedures for building owners to carry out small-scale building works, such as installation of supporting frames for air-conditioners, drying racks, small canopies, etc. in a lawful, simple, safe and convenient manner. Erection or alteration of specific types of signboards is also designated as minor works. Under the new system, building owners can choose to carry out minor works under the simplified requirements instead of following the more comprehensive requirements of obtaining prior approval of building plans and consent to commencement of works under section 14(1) of the BO.

5. The modus operandi of the MWCS is set out in the Building (Minor Works) Regulation (Cap 123 sub. leg. N) (“B(MW)R”). The B(MW)R provides for the classification of minor works and types of minor works items, simplified requirements for carrying out minor works, registration of minor works contractors, as well as duties of prescribed building professionals and prescribed registered contractors in carrying out minor works. Under the B(MW)R, minor works are classified into three classes (i.e. Class I, II & III, with Class I works most strictly controlled) according to their nature, scale and complexity as well as the risk they may pose. The works under each class are further classified into types and items that correspond to the specialisation of works in the industry.

Validation Scheme

6. Under the MWCS, a validation scheme for certain household minor UBWs also came into effect on 31 December 2010. The scheme allows unauthorised drying racks, small canopies and supporting frames for

air-conditioners which had been erected before the commencement of the MWCS to be validated under sections 39C(2) to (4) of the BO. The BA must not serve an order under section 24 or a notice under section 24C of the BO in respect of such “validated” UBWs (now designated as “prescribed building or building works” in Schedule 3 of the B(MW)R), even though they had been completed or carried out in contravention of section 14(1) of BO (i.e. without prior approval by the BA of plans and consent to commencement of works), before the full implementation of the MWCS on 31 December 2010.

Enforcement Action against Unauthorised Signboards

7. Depending on the technical specifications of the works involved, erection of signboards is either “building works” which requires prior approval by the BA of plans and consent to commencement of works under section 14(1) of the BO, or minor works which may be carried out in accordance with the simplified requirements under the MWCS as mentioned above. The Buildings (Amendment) Ordinance 2004 (No. 15 of 2004) introduced the definition of “signboard” in section 2(1) of the BO.

8. Where the erection of signboards is unauthorised, pursuant to the provisions in section 24(2)(c) of the BO, the BA may issue removal orders to the persons who shall be responsible for removing the unauthorised signboards concerned. According to section 24(2)(c)(i) of the BO, a removal order shall be served on the person for whom the signboard has been erected or is being erected (“the signboard owner”). If the signboard owner cannot be found, the BA will, pursuant to the provisions of section 24(2)(c)(ii) of the BO, serve a removal order on the person who is receiving or would receive any rent or other money consideration if the signboard were hired out. Only if the persons referred to in sections 24(2)(c)(i) and 24(2)(c)(ii) of the BO cannot be found would the BA, pursuant to section 24(2)(c)(iii) of the BO, serve a removal order on the owner of the land or premises on which the signboard has been erected or is being erected. Apart from taking necessary actions upon receiving reports on unauthorised signboards from the public, the BD has also launched large scale operations against large unauthorised signboards. In 2012, the BD had received 1,222 reports on, and served 198 removal orders against unauthorised signboards. A total of 150 unauthorised signboards were removed during that period.

THE PROPOSED SBCS

9. The existence of unauthorised signboards is a persistent building safety problem in Hong Kong. It is estimated that there are about 190,000

unauthorised signboards in Hong Kong. Many of them are in active use by business operations and their existence carries notable value for sustaining local commercial activities and contributing to Hong Kong's prosperity. In order to enhance the safety of existing unauthorised signboards, it is proposed that the SBCS be introduced in a way similar to that for prescribed building or building works (i.e. unauthorised small canopies, drying racks and supporting frames for air-conditioners) under the B(MW)R at present. Under the system, the continued use of certain existing unauthorised signboards will be allowed after safety inspection, strengthening (if necessary), and certification by building professionals and/or registered contractors. Unauthorised signboards that have not been validated under the SBCS will be subject to enforcement action by the BD.

5-Year Validity Period

10. In addition to the safety inspection required when the signboard is to be validated, we propose that all validated signboards should be subject to periodic safety inspection. At present, all prescribed building works under the B(MW)R belong to household amenity features. Unlike household amenity features, most of the unauthorised signboards are used by business operations. As such, they may deteriorate faster due to lack of maintenance if the business operations have closed down. It is therefore considered more appropriate that the signboard validated under the SBCS be subject to a 5-year safety inspection cycle. Signboard owners who have had their unauthorised signboards validated should, at intervals of not more than 5 years, either make a fresh validation submission for the signboards concerned or remove them. By subjecting the validated signboards to a 5-year inspection cycle, it is expected that the safety of these signboards can be further enhanced. This should also alleviate the potential risk posed by signboards that had been validated and subsequently abandoned as the BD would have information about the whereabouts of such signboards which have not undergone the periodic safety inspection and can take appropriate action against them.

Technical Specifications

11. To further delineate the limit on the size of unauthorised signboards that are eligible for safety validation, it is proposed that the technical specifications should follow those that have been designated as minor works in the B(MW)R to ensure that the signboards eligible for validation, like other minor works, are small in scale and pose less potential risk. The requirement of prior approval and consent of the BA before erection or alteration will, however, continue to apply to signboards falling outside these specifications. Under the MWCS, erection or alteration of specific types of signboards are

designated as minor works, which include projecting signboards, wall signboards, signboards on the roof of a building, outdoor signboards fixed on-grade (or together with a spread footing) and signboards on or hung beneath the soffit of a balcony or canopy (other than a cantilevered slab). The erection or alteration of these types of signboards, according to different specifications, is further classified into Class I, II or III minor works. It is proposed that only the building professionals or contractors who are registered for the specific classes, types and items of minor works relating to the erection and alteration of signboards can carry out the safety inspection, strengthening, and certification of unauthorised signboards falling within the corresponding classes, types and items.

IMPLEMENTATION PLAN OF THE SBCS

12. Unauthorised signboards falling within the technical specifications and erected before the day on which the Amendment Regulation comes into operation are eligible to be validated upon application for joining the validation scheme. Safety inspection, strengthening, and certification of unauthorised signboards falling within specific classes, types and items should be carried out by the building professionals or contractors who are registered for the corresponding classes, types and items of minor works relating to the erection and alteration of signboards. The BD will conduct audit check on the applications on a random basis to ensure the applications conform to the requirement under the SBCS.

13. To disseminate the message about the new system to the owners, the industry, as well as the general public, the BD will launch a publicity programme on the new regime, including briefings to be held to the industry before the launch of the SBCS. Furthermore, technical guidelines and pamphlets to owners and contractors will also be distributed to provide details on the requirements of the SBCS. Taking into account the time needed to complete these preparatory works, it is proposed that the date of 2 September 2013 should be appointed as the day on which the provisions related to the SBCS in the BL(A)O and the Amendment Regulation will come into operation.

THE COMMENCEMENT NOTICE AND THE AMENDMENT REGULATION

14. The Commencement Notice provides for the commencement of sections 3, 6, 7, 8, 9 and 10 of the BL(A)O on 2 September 2013.

15. The main provisions of the Amendment Regulation are as follows –
- (a) section 4 of the Amendment Regulation adds a new section 62A to the B(MW)R to provide for the following matters –
 - (i) the validation scheme applies to the unauthorised signboards erected before 2 September 2013;
 - (ii) the persons who are required to be appointed to inspect the unauthorised signboards;
 - (iii) the person appointed to inspect the unauthorised signboards is required to submit to the BA a notification;
 - (iv) the details that the notification is required to contain;
 - (v) other documents that are required to be submitted together with the notification; and
 - (vi) the requirements in sections 39C(2), (3) and (4) of the BO are required to be periodically complied with for not more than every 5 years.
 - (b) section 6 of the Amendment Regulation adds a new Part 3 to Schedule 3 to the B(MW)R containing the kinds of signboard to which the validation scheme applies.

LEGISLATIVE TIMETABLE

16. The legislative timetable for the proposal is as follows –

Publication in the Gazette	24 May 2013
Tabling in LegCo	29 May 2013
Commencement Date	2 September 2013

IMPLICATIONS OF THE PROPOSAL

17. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the BO and has no productivity or competition implications.

Financial and Civil Service Implications

18. The proposal will not have any financial implications. The BD set up the Signboard Control Unit (SCU) in 2011 which is responsible for enforcement action related to unauthorised signboards. The applications for joining the validation scheme under the SBCS will be handled by the existing staff of the SCU.

Economic Implications

19. The implementation of the proposal will help reduce the building safety problems associated with unauthorised signboards, and thereby reduce the cost of such problems, including personal injury and property damage.

Environmental Implications

20. The building safety problems commonly associated with unauthorised signboards will be reduced with the implementation of the proposal, thereby improving the quality of Hong Kong's built environment.

Sustainability Implications

21. The implementation of the proposal will strengthen the building safety of unauthorised signboards by allowing unauthorised signboards that are not unsafe to be periodically managed. This is in line with the sustainability principle of providing a better living environment and pursuing policies which promote and protect the safety of the people of Hong Kong.

PUBLIC CONSULTATION

22. The enabling provisions for the introduction of SBCS were included in the BL(A)O enacted in July 2012 and a Bills Committee had been set up to scrutinize the bill before its passage. The LegCo Panel on Development was briefed on 7 January 2013 on the detailed proposals about the SBCS. The proposals in the Amendment Regulation have also been discussed at the Building Subcommittee of the Land and Development Advisory Committee and the Technical Committee of the MWCS.

PUBLICITY

23. A press release will be issued on 24 May 2013 and a spokesman will be available to handle press enquiries.

24. Before the commencement of the Amendment Regulation and the Commencement Notice, the BD will launch a publicity and public education campaign to inform both the general public and the industry of the SBCS. Furthermore, technical guidelines and pamphlets to owners and contractors will also be published to provide details on the requirements of the SBCS.

ENQUIRY

25. Enquiry on this brief can be addressed to Mr. Ryan Chiu, Principal Assistant Secretary (Planning & Lands) 3 at 3509 8806.

Development Bureau
May 2013

Building (Minor Works) (Amendment) Regulation 2013

(Made by the Secretary for Development under section 38 of the Buildings Ordinance (Cap. 123))

1. Commencement

This Regulation comes into operation on the day on which sections 3, 6, 7, 8, 9 and 10 of the Buildings Legislation (Amendment) Ordinance 2012 (24 of 2012) come into operation.

2. Building (Minor Works) Regulation amended

The Building (Minor Works) Regulation (Cap. 123 sub. leg. N) is amended as set out in sections 3 to 6.

3. Section 62 amended (provisions relating to section 39C of Ordinance)

Section 62, heading—

Repeal

“section 39C”

Substitute

“section 39C(1)”.

4. Section 62A added

Part 9, after section 62—

Add

“62A. Provisions relating to section 39C(1A) of Ordinance

- (1) A signboard of the kind specified in Part 3 of Schedule 3 is the prescribed building or building works falling within the definition of *prescribed building or building*

works given by section 39C(6)(b)(ii) of the Ordinance in relation to section 39C(1A) of the Ordinance.

- (2) For section 39C(1A)(a) of the Ordinance, the date prescribed in relation to the signboard is 2 September 2013.
- (3) For section 39C(2) of the Ordinance, the following person or persons is or are to be appointed to inspect the signboard—
 - (a) for a signboard falling within the description of an item of minor works under class I—
 - (i) if the signboard is a specified construction, an authorized person; and
 - (ii) if the signboard is not a specified construction, an authorized person and a registered structural engineer;
 - (b) for a signboard falling within the description of an item of minor works under class II or class III—
 - (i) an authorized person;
 - (ii) a registered structural engineer;
 - (iii) a registered inspector;
 - (iv) a registered general building contractor;
 - (v) a registered minor works contractor who is registered for that item; or
 - (vi) a registered minor works contractor who is registered for the type of minor works under the class that are the minor works described in that item.
- (4) For section 39C(3) of the Ordinance, the person appointed under section 39C(2) of the Ordinance (*appointed person*) must, within 14 days after the

completion of the inspection, submit to the Building Authority—

- (a) a notification in the specified form—
 - (i) that contains the personal particulars and contact information of the person for whom the signboard was erected, as provided by that person;
 - (ii) in which the person who arranged for the inspection to be carried out has specified the appointed person as the person appointed under section 39C(2) of the Ordinance for the inspection;
 - (iii) in which the appointed person has confirmed the appointment and the date on which the signboard was inspected; and
 - (iv) in which the appointed person has certified that the signboard was structurally safe in the person's opinion and complied with the Ordinance (except section 14(1) of the Ordinance and regulation 25 of the Building (Administration) Regulations (Cap. 123 sub. leg. A)); and
 - (b) a photograph and description showing the physical condition of the signboard.
- (5) For section 39C(1A)(c) of the Ordinance, if the requirements in section 39C(2), (3) and (4) of the Ordinance have been complied with for the signboard, the requirements must, within 5 years after the date of the compliance, be complied with for the signboard again.
 - (6) In subsection (3)(a)—

specified construction (指明建築結構) means a construction that satisfies all the criteria under section 37(4).”.

5. Schedule 1 amended (minor works)

Schedule 1—

Repeal

“[ss. 2 & 28]”

Substitute

“[ss. 2 & 28 & Sch. 3]”.

6. Schedule 3 amended (prescribed building or building works)

(1) Schedule 3—

Repeal

“[s. 62]”

Substitute

“[ss. 62 & 62A]”.

(2) Schedule 3, Part 2, heading, after “**Works**”—

Add

“**Relating to Section 39C(1) of Ordinance**”.

(3) Schedule 3, after Part 2—

Add

“Part 3

**List of Prescribed Building or Building Works
Relating to Section 39C(1A) of Ordinance**

Item	Description
1.	<p>An unauthorized projecting signboard falling within the description of—</p> <p>(a) paragraphs (a), (d), (e) and (f) of item 1.20 of Part 3 of Schedule 1;</p> <p>(b) paragraphs (a), (d), (e) and (f) of item 2.18 of Part 3 of Schedule 1; or</p> <p>(c) paragraphs (a), (d), (e), (f) and (g) of item 3.16 of Part 3 of Schedule 1.</p>
2.	<p>An unauthorized wall signboard falling within the description of—</p> <p>(a) paragraphs (c), (d) and (e) of item 1.22 of Part 3 of Schedule 1;</p> <p>(b) paragraphs (c), (d) and (e) of item 2.19 of Part 3 of Schedule 1; or</p> <p>(c) paragraphs (c) and (d) of item 3.17 of Part 3 of Schedule 1.</p>
3.	<p>An unauthorized signboard on the roof of a building falling within the description of paragraphs (a), (d), (e), (f) and (g) of item 1.21 of Part 3 of Schedule 1.</p>
4.	<p>An unauthorized outdoor signboard fixed on-grade falling within the description of—</p>

Item	Description
	<p>(a) paragraphs (a), (b) and (c) of item 1.23 of Part 3 of Schedule 1; or</p> <p>(b) paragraphs (a), (b) and (c) of item 2.21 of Part 3 of Schedule 1.</p>
5.	<p>An unauthorized outdoor signboard together with a spread footing falling within the description of paragraphs (a), (b), (c) and (d) of item 2.22 of Part 3 of Schedule 1.</p>
6.	<p>An unauthorized signboard on or hung underneath the soffit of a balcony or canopy (other than a cantilevered slab) falling within the description of paragraphs (a), (b), (c), (d) and (e) of item 2.20 of Part 3 of Schedule 1.”.</p>

Secretary for Development

2013

Explanatory Note

The object of this Regulation is to amend the Building (Minor Works) Regulation (Cap. 123 sub. leg. N) (*principal Regulation*) to prescribe the kinds of signboard mentioned in item 1 in Schedule 8 to the Buildings Ordinance (Cap. 123) (*Ordinance*) and other technical details for the implementation of section 39C(1A) of the Ordinance in relation to signboards erected in contravention of the Ordinance (*unauthorized signboards*).

2. Section 3 amends the heading of section 62 of the principal Regulation by clarifying that section 62 only applies in relation to section 39C(1) of the Ordinance.
3. Section 4 adds a new section 62A to the principal Regulation. The new section 62A provides for the following matters for the implementation of section 39C(1A) of the Ordinance in relation to the unauthorized signboards—
 - (a) the kinds of signboard to which section 39C(1A) of the Ordinance applies are to be specified in the new Part 3 of Schedule 3 to the principal Regulation;
 - (b) section 39C(1A) of the Ordinance applies to the unauthorized signboards erected before 2 September 2013;
 - (c) the persons who are required to be appointed to inspect the unauthorized signboards;
 - (d) the person appointed to inspect the unauthorized signboards is required to submit to the Building Authority a notification;
 - (e) the details that the notification is required to contain;
 - (f) other documents that are required to be submitted together with the notification; and

- (g) the requirements in section 39C(2), (3) and (4) of the Ordinance are required to be periodically complied with for not more than every 5 years.
4. Section 6 adds a new Part 3 in Schedule 3 to the principal Regulation containing the kinds of signboard to which section 39C(1A) of the Ordinance applies.

Buildings Legislation (Amendment) Ordinance 2012 (Commencement) Notice

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**Buildings Legislation (Amendment) Ordinance 2012
(Commencement) Notice**

Under section 1(3) of the Buildings Legislation (Amendment) Ordinance 2012 (24 of 2012), I appoint 2 September 2013 as the day on which sections 3, 6, 7, 8, 9 and 10 of the Ordinance come into operation.

Secretary for Development

2013