
Waterworks (Amendment) Ordinance 2018

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HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 11 OF 2018



Carrie LAM
Chief Executive
14 February 2018

An Ordinance to amend the Waterworks Ordinance and the Waterworks Regulations to revise the requirements relating to the carrying out of works on fire services and inside services.

[15 February 2018]

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title

This Ordinance may be cited as the Waterworks (Amendment) Ordinance 2018.

2. Enactments amended

- (1) The Waterworks Ordinance (Cap. 102) is amended as set out in Part 2.

Waterworks (Amendment) Ordinance 2018

Part 1
Section 2

Ord. No. 11 of 2018
A651

- (2) The Waterworks Regulations (Cap. 102 sub. leg. A) are amended as set out in Part 3.
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Part 2

Amendments to Waterworks Ordinance

3. **Section 2 amended (interpretation)**

Section 2—

Add in alphabetical order

“registered plumbing worker (註冊水喉技工), for a particular purpose, means a person specified for the purpose in Part 1 of the Schedule;

registered plumbing worker (provisional) (註冊水喉技工(臨時)), for a particular purpose, means a person specified for the purpose in Part 2 of the Schedule;”.

4. **Section 10 amended (disconnexion of a fire service or inside service)**

Section 10(f), after “12”—

Add

“or 15B”.

5. **Sections 13A and 13B added**

Part III, before section 14—

Add

“13A. Meaning of *specified plumbing works*

In this Part—

specified plumbing works (指明水管工程) means the construction, installation, maintenance, alteration, repair or removal of a fire service or inside service.

13B. Meaning of carrying out specified plumbing works under instruction and supervision

For the purposes of this Part, a person carries out specified plumbing works under the instruction and supervision of another person (*supervisor*) if—

- (a) the specified plumbing works are carried out by the person at the direction of the supervisor and within the scope decided by the supervisor; and
- (b) the method and manner in which the specified plumbing works are carried out are specified by the supervisor.”.

6. Section 14 amended (construction, etc., of fire services and inside services)

- (1) Section 14, heading—

Repeal

“**Construction, etc.,**”

Substitute

“**Restriction on construction etc.**”.

- (2) Section 14—

Repeal subsection (1)**Substitute**

“(1) Subject to subsection (2), a person must not construct, install, alter or remove a fire service or inside service unless the Water Authority has granted a written permission for it.

- (1A) A person who contravenes subsection (1) commits an offence.”.

- (3) After section 14(2)—

Add

“(2A) The Water Authority may grant the written permission on the Authority’s own initiative or on the application of a licensed plumber.”.

(4) Section 14—

Repeal subsection (3)

Substitute

“(3) The construction or installation of, or alteration to, a fire service or inside service must be carried out in the prescribed way and the pipes and fittings used in the construction, installation or alteration must be of the prescribed nature, size and quality.”.

(5) Section 14—

Repeal subsection (4)

Substitute

“(4) If subsection (3) is contravened in relation to the construction or installation of, or alteration to, a fire service or inside service, or any part of it (*the works*), each of the following persons commits an offence—

- (a) a licensed plumber under whose instruction and supervision the works are carried out;
- (b) a licensed plumber who carries out the works;
- (c) if a written permission for the works was granted under subsection (2A) on the application of a licensed plumber who is not a plumber described in paragraph (a) or (b)—the licensed plumber;
- (d) a person (other than a licensed plumber)—
 - (i) under whose instruction and supervision the works are carried out; and

-
- (ii) who knows that carrying out the works would contravene subsection (3);
 - (e) a person (other than a licensed plumber) who—
 - (i) carries out the works; and
 - (ii) knows that carrying out the works would contravene subsection (3).
 - (5) It is a defence for a person charged with an offence under subsection (4) if—
 - (a) for a person mentioned in subsection (4)(a) or (c), the person establishes that the person had taken all reasonable steps to ensure that carrying out the works would not contravene subsection (3); or
 - (b) for a person mentioned in subsection (4)(b), the person establishes that—
 - (i) the person believed that carrying out the works would not contravene subsection (3); and
 - (ii) it was reasonable for the person to so believe.
 - (6) Without limiting subsection (5)(a), a person mentioned in subsection (4)(a) or (c) must not be regarded as having taken all reasonable steps if the person did not, having regard to the matters set out in subsection (7), inspect the carrying out of the works as often as was reasonable to ensure that the works were carried out in compliance with subsection (3).
 - (7) The matters are—
 - (a) the nature of the works;

- (b) the risks involved in the works; and
- (c) the knowledge and experience of the person carrying out the works.”.

7. Section 15 amended (construction, etc. by licensed plumbers)

- (1) Section 15, heading—

Repeal

“Construction, etc. by licensed plumbers”

Substitute

“Who may carry out specified plumbing works”.

- (2) Section 15—

Repeal subsection (1)

Substitute

“(1) Subject to subsection (2), a person who is not a designated person must not carry out specified plumbing works.”.

- (3) Section 15—

Repeal subsection (2)

Substitute

“(2) A person who is not a designated person may carry out specified plumbing works if the works are—

- (a) alterations or repairs to a fire service or inside service that are, in the opinion of the Water Authority, of a minor nature;
- (b) construction work on a construction site carried out in accordance with section 3(2), 3A or 4 of the Construction Workers Registration Ordinance (Cap. 583); or

- (c) construction work exempted from sections 3(2), 3A and 4 of that Ordinance under section 4, 7 or 8 of the Construction Workers Registration (Exemption) Regulation (Cap. 583 sub. leg. C).”.
- (4) Section 15—

Repeal subsection (3)

Substitute

- “(3) A person who contravenes subsection (1) commits an offence.
- (4) A person who employs or permits a person who is not a designated person to carry out specified plumbing works that do not fall within subsection (2)(a), (b) or (c) commits an offence.
- (5) It is a defence for a person charged with an offence under subsection (4) (*defendant*) if the defendant establishes that—
- (a) the defendant believed that the person who carried out the specified plumbing works was a designated person; and
- (b) it was reasonable for the defendant to so believe.
- (6) In this section—
- construction site* (建造工地) has the meaning given by section 2(1) of the Construction Workers Registration Ordinance (Cap. 583);
- construction work* (建造工作) has the meaning given by section 2(1) of the Construction Workers Registration Ordinance (Cap. 583);
- designated person* (指定人士) means—
- (a) a licensed plumber;
- (b) a registered plumbing worker;

- (c) a registered plumbing worker (provisional);
- (d) a person who carries out specified plumbing works under the instruction and supervision of a licensed plumber or registered plumbing worker; or
- (e) a public officer authorized by the Water Authority.”.

8. Sections 15A and 15B added

After section 15—

Add

“15A. Alterations or repairs not considered as of minor nature

For the purposes of sections 14(2) and 15(2)(a), alterations or repairs to a fire service or inside service must not be considered as of a minor nature if the alterations or repairs would, in the opinion of the Water Authority, adversely affect—

- (a) the efficiency of the fire service or inside service in providing a reliable and adequate supply of water; or
- (b) the quality of the water.

15B. Power of entry into non-domestic premises and power to question etc.

- (1) An authorized officer may at any reasonable time—
 - (a) enter any non-domestic premises to ascertain whether specified plumbing works are being, or have been, carried out on the premises in contravention of section 15; or

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- (b) enter any other non-domestic premises for exercising the power under paragraph (a).
- (2) After entering any premises under subsection (1)(a), an authorized officer may exercise any or all of the following powers—
- (a) take photographs or make video recordings of the premises and the fire service or inside service on the premises;
- (b) require a person found on the premises to answer a question as to—
- (i) whether the person is carrying out or has carried out specified plumbing works on the premises; and
- (ii) whether the person is a licensed plumber, registered plumbing worker or registered plumbing worker (provisional) (*qualified person*);
- (c) if a person found on the premises states that the person is a qualified person—
- (i) require the person to produce documentary proof in support of the statement; or
- (ii) if the person is not able to produce the documentary proof immediately—require the person to produce the proof at a place and within a reasonable time required by the officer;
- (d) if a person found on the premises states that the person is not a qualified person—

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- (i) require the person to answer a question as to whether the person is carrying out or has carried out specified plumbing works on the premises under the instruction and supervision of a licensed plumber or registered plumbing worker; and
 - (ii) if the person answers the question in the affirmative—require the person to provide to the officer the name and contact details of the person who provided the instruction and supervision;
 - (e) if the officer reasonably suspects that there is or has been a contravention of section 15 on the premises, require a person found on the premises to provide to the officer any information that the officer reasonably believes—
 - (i) is relevant for ascertaining whether there is or has been a contravention of section 15; and
 - (ii) is within the person's knowledge;
 - (f) if the officer reasonably suspects that a person found on the premises is contravening or has contravened section 15, after informing the person of the act or omission that may constitute the suspected contravention—
 - (i) detain the person in the premises for a reasonable time for further enquiries about the suspected contravention; and

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- (ii) require the person to provide to the officer the person's name, address, telephone number, proof of identity and any other personal particulars the officer may reasonably require.
- (3) A person who fails to comply with a requirement under subsection (2) commits an offence.
- (4) A person who, in purported compliance with a requirement under subsection (2), makes any statement or provides any information that is false or misleading in a material particular commits an offence.
- (5) It is a defence for a person charged with an offence under subsection (3) if the person establishes that at the time of the alleged offence the person had a reasonable excuse for failing to comply with the requirement.
- (6) It is a defence for a person charged with an offence under subsection (4) if the person establishes that at the time of the alleged offence the person did not know, had no reason to suspect, and could not with reasonable diligence have ascertained, that the statement or information concerned was false or misleading in a material particular.
- (7) A person is not excused from complying with a requirement under subsection (2) only on the ground that to do so might tend to incriminate the person.
- (8) The power under this section is in addition to, and not in derogation of, the power under section 12.
- (9) In this section—

authorized officer (獲授權人員) means the Water Authority or a public officer authorized by the Water Authority in writing;

home for elderly persons (安老院) means a residential care home as defined by section 2 of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459);

home for persons with disabilities (殘疾人士院舍) means a residential care home for PWDs as defined by section 2 of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613);

non-domestic premises (非住用處所) means premises other than those used for human habitation (including those used as a hotel, guesthouse, serviced apartment, dormitory, home for elderly persons, home for persons with disabilities, child care centre, nursery or similar premises).”.

9. Section 18A added

Part III, after section 18—

Add

“18A. Burden of proof for defence

A person charged with an offence under this Part is taken to have established a fact that needs to be established for a defence under this Part if—

- (a) there is sufficient evidence to raise an issue with respect to the fact; and
- (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.

10. Section 36A added

After section 36—

Add**“36A. Time limit for prosecutions**

- (1) Subject to subsection (2), a prosecution for a contravention of this Ordinance may be commenced within 6 months beginning on the date immediately after the date on which the contravention is discovered by, or comes to the notice of, the Water Authority.
- (2) For a contravention of section 14(3) in relation to the construction or installation of, or alteration to, a fire service or inside service, or any part of it (*the works*)—
 - (a) if an application for inspection and approval of the fire service or inside service, or alteration, has been made under regulation 6(1)(a) or (2) of the Waterworks Regulations (Cap. 102 sub. leg. A)—no prosecution may be commenced if the contravention is discovered by, or comes to the notice of, the Water Authority after 6 years after the date of the application; or
 - (b) if the works are alterations falling within section 14(2)—no prosecution may be commenced if the contravention is discovered by, or comes to the notice of, the Water Authority after 6 years after the date of the contravention.
- (3) This section does not apply in relation to a contravention committed before the date on which the Waterworks (Amendment) Ordinance 2018 (11 of 2018) comes into operation.”

11. Section 38A added

After section 38—

Add

“38A. Amendment of Schedule

The Secretary for Development may, by notice published in the Gazette, amend the Schedule.”.

12. Section 40 and Schedule added

After section 39—

Add

“40. Transitional and saving provisions for Waterworks (Amendment) Ordinance 2018

- (1) A permission granted on the application of a licensed plumber before the commencement date for the construction, installation, alteration or removal of a fire service or inside service (*the works*) that has not been completed immediately before that date continues to have effect after that date as if it were granted for the works under section 14(2A) on the application of the plumber.
- (2) An application for a permission for the works made by a licensed plumber that is still pending immediately before the commencement date is to continue to be processed as if the amending Ordinance had not been enacted and, if the permission is granted, the permission is to have effect as if it were granted for the works under section 14(2A) on the application of the plumber.

- (3) If section 14(3) is contravened in relation to the construction or installation of, or alteration to, a fire service or inside service, or any part of it, for which there was a permission granted before the commencement date—
- (a) section 14 of the pre-amended Ordinance continues to apply in relation to the contravention as if the amending Ordinance had not been enacted; and
 - (b) section 36A applies in relation to the contravention.
- (4) In this section—

amending Ordinance (《修訂條例》) means the Waterworks (Amendment) Ordinance 2018 (11 of 2018);

commencement date (生效日期) means the date on which the amending Ordinance comes into operation;

permission (許可) means a written permission mentioned in section 14;

pre-amended Ordinance (《未經修訂條例》) means this Ordinance as in force immediately before the commencement date.

Schedule

[ss. 2 & 38A]

Registered Plumbing Worker and Registered Plumbing Worker (Provisional)

Part 1

Registered Plumbing Worker

1. For the construction, installation, maintenance, alteration, repair or removal of a fire service, a person who is registered under the Construction Workers Registration Ordinance (Cap. 583) as—
 - (a) a registered skilled worker for the plumber trade division;
 - (b) a registered skilled worker for the drain and pipe layer (master) trade division;
 - (c) a registered skilled worker for the fire service mechanic (master) trade division;
 - (d) a registered skilled worker for the fire service mechanical fitter trade division;
 - (e) a registered semi-skilled worker for the plumber trade division; or
 - (f) a registered semi-skilled worker for the fire service mechanical fitter trade division.

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2. For the construction, installation, maintenance, alteration, repair or removal of an inside service, a person who is registered under the Construction Workers Registration Ordinance (Cap. 583) as—
 - (a) a registered skilled worker for the plumber trade division;
 - (b) a registered skilled worker for the drain and pipe layer (master) trade division; or
 - (c) a registered semi-skilled worker for the plumber trade division.

 3. For the installation of a meter, a person who is registered under the Construction Workers Registration Ordinance (Cap. 583) as—
 - (a) a registered skilled worker for the plumber trade division;
 - (b) a registered skilled worker for the drain and pipe layer (master) trade division;
 - (c) a registered skilled worker for the fire service mechanic (master) trade division;
 - (d) a registered skilled worker for the fire service mechanical fitter trade division;
 - (e) a registered semi-skilled worker for the plumber trade division; or
 - (f) a registered semi-skilled worker for the fire service mechanical fitter trade division.

Part 2

Registered Plumbing Worker (Provisional)

1. For the construction, installation, maintenance, alteration, repair or removal of a fire service, a person who is registered under the Construction Workers Registration Ordinance (Cap. 583) as—
 - (a) a registered skilled worker (provisional) for the plumber trade division;
 - (b) a registered skilled worker (provisional) for the drain and pipe layer (master) trade division;
 - (c) a registered skilled worker (provisional) for the fire service mechanical fitter trade division;
 - (d) a registered semi-skilled worker (provisional) for the plumber trade division; or
 - (e) a registered semi-skilled worker (provisional) for the fire service mechanical fitter trade division.

2. For the construction, installation, maintenance, alteration, repair or removal of an inside service, a person who is registered under the Construction Workers Registration Ordinance (Cap. 583) as—
 - (a) a registered skilled worker (provisional) for the plumber trade division;
 - (b) a registered skilled worker (provisional) for the drain and pipe layer (master) trade division; or
 - (c) a registered semi-skilled worker (provisional) for the plumber trade division.

3. For the installation of a meter, a person who is registered under the Construction Workers Registration Ordinance (Cap. 583) as—
 - (a) a registered skilled worker (provisional) for the plumber trade division;
 - (b) a registered skilled worker (provisional) for the drain and pipe layer (master) trade division;
 - (c) a registered skilled worker (provisional) for the fire service mechanical fitter trade division;
 - (d) a registered semi-skilled worker (provisional) for the plumber trade division; or
 - (e) a registered semi-skilled worker (provisional) for the fire service mechanical fitter trade division.”.

13. “拆除” substituted for “移動”

The following provisions, Chinese text—

- (a) Section 2, definition of 持牌水喉匠;
- (b) Section 4(2);
- (c) Section 9(c);
- (d) Section 12(1)(e);
- (e) Section 17(1) and (2);
- (f) Section 37(1)(b) and (e)—

Repeal

“移動” (wherever appearing)

Substitute

“拆除”.

Part 3

Amendments to Waterworks Regulations

14. Regulation 6 amended (inspection and approval of works)

(1) Regulation 6(1)—

Repeal

“A person who constructs or installs a fire service or inside service shall”

Substitute

“If the construction or installation of a fire service or inside service is carried out with a written permission granted under section 14(2A) of the Ordinance on an application of a licensed plumber, the plumber must”.

(2) Regulation 6(2)—

Repeal

“A person who makes any alterations to a fire service or inside service shall”

Substitute

“If the alteration to a fire service or inside service is carried out with a written permission granted under section 14(2A) of the Ordinance on an application of a licensed plumber, the plumber must”.

(3) Regulation 6(2), English text—

Repeal

“alterations.”

Substitute

“alteration.”.

(4) Regulation 6(5), English text—

Repeal

“he shall”

Substitute

“, the Water Authority must”.

15. Regulation 26 amended (installation of meters)

Regulation 26(2A)(b)—

Repeal

everything after “by”

Substitute

“any of the following persons in the manner specified by the Water Authority—

- (i) a licensed plumber;
- (ii) a registered plumbing worker;
- (iii) a registered plumbing worker (provisional).”.

16. Regulation 51A added

After regulation 51—

Add

“51A. Time limit for prosecutions

- (1) A prosecution for a contravention of these regulations may be commenced within 6 months beginning on the date immediately after the date on which the contravention is discovered by, or comes to the notice of, the Water Authority.

- (2) This regulation does not apply in relation to a contravention committed before the date on which the Waterworks (Amendment) Ordinance 2018 (11 of 2018) comes into operation.”.

17. “拆除” substituted for “移動”

The following provisions, Chinese text—

- (a) Regulation 3(1);
- (b) Regulation 5(1);
- (c) Regulation 35(1) and (2);
- (d) Regulation 37(1)(b)—

Repeal

“移動” (wherever appearing)

Substitute

“拆除”.