

# **Buildings Ordinance**

## **(Cap. 123)**

### **Contents**

<b>Section</b>		<b>Page</b>
1.	Short title	1-2
2.	Interpretation	1-2
2A.	Designation of specialized works	1-28
<b>Part 1</b>		
<b>Authorized Persons, Registered Structural Engineers, Registered Geotechnical Engineers, Registered Inspectors and Registered Contractors</b>		
3.	Registers of authorized persons, structural engineers, geotechnical engineers and inspectors	1-30
4.	Appointment and duties of authorized person, registered structural engineer or registered geotechnical engineer	1-60
4A.	Appointment of prescribed building professionals: minor works commenced or carried out without approval and consent	1-64
4B.	Duties of prescribed building professional appointed or nominated in respect of minor works commenced under simplified requirements	1-66

<b>Section</b>		<b>Page</b>
5.	Appointment and powers of disciplinary board	1-70
5A.	Authorized Persons', Registered Structural Engineers' and Registered Geotechnical Engineers' Disciplinary Board Panel and Registered Inspectors' Disciplinary Board Panel	1-74
5AA.	Secretary to the disciplinary board	1-76
6.	<i>(Repealed)</i>	1-78
7.	Disciplinary proceedings for authorized person, registered structural engineer, registered geotechnical engineer or registered inspector	1-78
8.	Contractors Registration Committee	1-88
8A.	Registers of contractors, etc.	1-92
8B.	Application for registration as a contractor	1-96
8C.	Renewal of registration as a contractor	1-100
8D.	Restoring name to register of contractors	1-106
8E.	Building Authority to give reasons	1-106
8F.	Effective dates	1-108
8G.	<i>(Repealed)</i>	1-108
9.	Appointment and duties of registered contractors	1-108
9AA.	Appointment and duties of prescribed registered contractors: minor works	1-112

<b>Section</b>		<b>Page</b>
9A.	Appeals from Registration Committees	1-114
10.	( <i>Repealed</i> )	1-114
11.	Appointment and powers of disciplinary board	1-116
11A.	Contractors' Disciplinary Board Panel	1-122
11AA.	Secretary to the disciplinary board	1-124
12.	( <i>Repealed</i> )	1-124
13.	Disciplinary proceedings for contractors	1-124
13A.	Appeal against Building Authority's decision	1-134

**Part 2**  
**Control of Building**

14.	Approval and consent required for commencement of building works, etc.	2-2
14A.	Building Authority not deemed to consent if supervision plan not lodged	2-2
14AA.	Approval and consent not required for minor works	2-4
15.	Approval and consent deemed to be given unless refusal notified	2-4
16.	Grounds on which approval or consent may be refused	2-4
17.	Conditions may be imposed in certain cases	2-20
17A.	Incompatibility with sewage tunnel works	2-32
18.	Authority to erect shoring in certain cases	2-34

<b>Section</b>		<b>Page</b>
18A.	Claims for compensation	2-40
19.	Provision for urgent work	2-42
20.	Resumption of work suspended	2-46
21.	Occupation of new building	2-46
22.	Powers of Building Authority	2-52
23.	Building works, etc. to cease on order of Building Authority	2-60
24.	Order for demolition, removal, or alteration of building, building works (other than minor works commenced under simplified requirements) or street works	2-62
24A.	Order to cease or remedy dangerous works	2-70
24AA.	Order for demolition, removal, or alteration of minor works commenced under simplified requirements	2-72
24B.	Priority demolition	2-80
24C.	Notice for demolition or alteration of building or building works	2-96
25.	Change in use of buildings	2-102
26.	Dangerous buildings	2-102
26A.	Defective buildings	2-108
27.	Closure Order	2-112
27A.	Dangerous hillsides, etc.	2-120

<b>Section</b>		<b>Page</b>
27B.	Danger to buildings caused by abstraction of groundwater from wells	2-126
27C.	Water pipes, drains or sewers laid in slopes, etc.	2-128
28.	Drainage	2-134
28A.	Groundwater drainage works in scheduled area	2-142
28B.	Authorization to carry out relevant works in case of objection etc. by persons whose property is affected	2-142
28C.	Magistrate's warrant	2-146
28D.	Obligation to make good, and compensation for, damage	2-146
29.	Construction and maintenance of private streets and access roads	2-150
29A.	Maintenance of emergency vehicular access	2-154
30.	Openings to or from streets	2-158

**Part 2A**  
**Inspection and Repair of Building**

30A.	Application	2A-2
30B.	Obligation on owners to carry out prescribed inspection and prescribed repair in respect of buildings	2A-2
30C.	Obligation on owners to carry out prescribed inspection and prescribed repair in respect of windows	2A-8

<b>Section</b>		<b>Page</b>
30D.	Appointment and duties of registered inspectors	2A-14
30E.	Appointment and duties of qualified persons	2A-20
30F.	Duties of registered general building contractors and registered minor works contractors	2A-22

**Part 3**  
**Miscellaneous and General**

31.	Projections on or over streets	3-2
32.	Naming of streets and numbering of buildings	3-6
32A.	Carrying out of other works and provision of services	3-6
32B.	Cost of abortive visit	3-8
33.	Recovery of costs and surcharge by Building Authority	3-8
34.	Disposal of materials resulting from works carried out by Building Authority	3-14
35.	Service of notices and orders	3-14
36.	( <i>Repealed</i> )	3-16
36A.	( <i>Repealed</i> )	3-16
36B.	( <i>Repealed</i> )	3-16
36C.	Powers to make records of specified documents and copy records	3-16
36D.	Disposal of documents	3-16

<b>Section</b>		<b>Page</b>
36E.	Specified document records to be treated as specified documents	3-16
36F.	Making available specified document records to public through electronic networks	3-18
36G.	Issue, certification and inspection of copies, etc. of specified documents or specified document records	3-18
36H.	Power to certify copies, etc. of specified documents or specified document records	3-20
36I.	Admissibility in evidence of copies, etc.	3-20
37.	Limitation of public liability	3-22
38.	Regulations	3-24
39.	Application of new regulations	3-44
39A.	Technical memorandum	3-46
39B.	Obstruction of owners' corporation	3-52
39C.	Building Authority must not serve order under section 24 or notice under section 24C	3-54

**Part 4  
Offences**

40.	Offences	4-2
-----	----------	-----

**Part 5  
Exemptions**

41.	Exemptions	5-2
42.	Building Authority's powers of exemption	5-6

Section	Page
---------	------

**Part 6  
Appeals**

43.	Interpretation	6-2
44.	Appeals from decisions of Building Authority	6-2
45.	Appeal Tribunal Panel	6-4
46.	Secretary to the Appeal Tribunal	6-6
47.	Notice of appeal	6-6
48.	Appeal Tribunal	6-8
49.	Preliminary hearing	6-8
50.	Determination of appeal	6-10
51.	Power to award costs	6-12
52.	Representation	6-12
53.	Inspection	6-14
53A.	Immunity	6-14
53B.	Offences in respect of Appeal Tribunal	6-16
53C.	Case stated	6-16
53D.	Chairman's power to determine procedure	6-18

**Part 7  
Transitional Arrangements**

53E.	Interpretation	7-2
53F.	<i>(Omitted as spent)</i>	7-2

<b>Section</b>		<b>Page</b>
53G.	Preservation of right of appeal and determination of pending applications	7-2
53H.	Inclusion of certain registered professional engineers in geotechnical engineers' register	7-6
53I.	Application for inclusion in geotechnical engineers' register without prescribed qualifications	7-6
53J.	Transitional provisions for other miscellaneous matters	7-12

**Part 8**  
**Saving and Validation**

54.	Saving	8-2
55.	Validation	8-2

**Part 9**  
*(added)*

56.	Savings and transitional provisions relating to minor works	9-2
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First Schedule	<i>(Repealed)</i>	S1-2
Schedule 2	Provisions of Buildings Ordinance 1935 to Continue in Operation	S2-2
Schedule 3	Form of Warrant	S3-2
Schedule 4	Departments	S4-2
Schedule 5	Scheduled Areas	S5-2
Schedule 6	Form of Warrant	S6-2

<b>Section</b>		<b>Page</b>
Schedule 7	Penalty Notice	S7-2
Schedule 8	Prescribed Building or Building Works	S8-2

To provide for the planning, design and construction of buildings and associated works; to make provision for the rendering safe of dangerous buildings and land; to make provision for regular inspections of buildings and the associated repairs to prevent the buildings from becoming unsafe; and to make provision for matters connected therewith.

*(Replaced 72 of 1980 s. 2. Amended 16 of 2011 s. 3)*

[1 June 1956] G.N.A. 45 of 1956

*(Format changes—E.R. 1 of 2012)*

## 1. Short title

- (1) This Ordinance may be cited as the Buildings Ordinance.
- (2) This Ordinance shall apply to the New Territories in the manner provided by the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121). *(Replaced 60 of 1987 s. 14)*

## 2. Interpretation

- (1) In this Ordinance, unless the context otherwise requires—  
**access road** (通路) means a road on land held under lease, licence or otherwise from the Government or on land over which the Government has granted a right of way, providing access only to buildings used or intended to be used wholly or mainly for purposes of habitation, and which is not a street; *(Added 44 of 1959 s. 2. Amended 29 of 1998 s. 105)*

**Architects Registration Board** (建築師註冊管理局) means the Architects Registration Board established by section 4 of the Architects Registration Ordinance (Cap. 408); *(Added 54 of 1996 s. 2)*

**authorized person** (認可人士) means a person whose name is on the authorized persons' register kept under section 3(1)—

- (a) as an architect;
- (b) as an engineer; or
- (c) as a surveyor; (*Replaced 54 of 1996 s. 2*)

**building** (建築物) includes the whole, or any part, of any domestic or public building or building which is constructed or adapted for use for public entertainment, arch, bridge, cavern adapted or constructed to be used for the storage of petroleum products, chimney, cook-house, cowshed, dock, factory, garage, hangar, hoarding, latrine, matshed, office, oil storage installation, out-house, pier, shelter, shop, stable, stairs, wall, warehouse, wharf, workshop or tower, sea-wall, breakwater, jetty, mole, quay, cavern or any underground space adapted or constructed for occupation or use for any purpose including its associated access tunnels and access shafts, pylon or other similar structure supporting an aerial ropeway and such other structures as the Building Authority may by notice in the Gazette declare to be a building; (*Amended 44 of 1959 s. 2; 19 of 1976 s. 32; 16 of 1978 s. 2; 5 of 1983 s. 2; 68 of 1993 s. 2; 72 of 1995 s. 15*)

**Building Authority** (建築事務監督) means the Director of Buildings; (*Amended L.N. 76 of 1982; L.N. 94 of 1986; L.N. 291 of 1993*)

**building owner** (建築物擁有人) means a person desiring to build a new building or to alter an existing building and shall include the agent of and authorized person appointed by a building owner; (*Amended 91 of 1990 s. 2*)

**building works** (建筑工程) includes any kind of building construction, site formation works, ground investigation in the scheduled areas, foundation works, repairs, demolition, alteration, addition and every kind of building operation, and includes drainage works; (*Amended 72 of 1980 s. 3; 41 of 1982 s. 2; 52 of 1990 s. 2*)

**common parts** (公用部分) has the meaning given by section 2 of the Building Management Ordinance (Cap. 344); (*Added 16 of 2011 s. 4*)

**composite building** (綜合用途建築物) means a building that is partly domestic and partly non-domestic; (*Added 73 of 1983 s. 2*)

**contraventions of the provisions of this Ordinance** (違反本條例的條文) includes—

- (a) failure to comply with any order given, notice served or any condition imposed by the Building Authority under this Ordinance; (*Amended 16 of 2011 s. 4*)
- (b) in the case of building works (other than minor works commenced under the simplified requirements), material divergence or deviation from any plan approved by the Building Authority under this Ordinance;
- (c) in the case of minor works commenced under the simplified requirements, material divergence or deviation from any plan required to be submitted to the Building Authority under the simplified requirements; and
- (d) in the case of minor works commenced under the simplified requirements, failure to submit to the Building Authority any certificate required to be submitted under the simplified requirements; (*Replaced 20 of 2008 s. 3*)

**dangerous building** (危險建築物) means any building in such a condition as to cause risk of injury either to the occupiers or users of such building or to the occupiers or users of any neighbouring building or to the general public;

**design assumption** (設計假定) means an assumption stated or implied in the design calculations or other documentation in respect of building works submitted to the Building Authority; (*Added 72 of 1980 s. 3*)

**domestic** (住用), when used in relation to a part of a composite building, means a part that is constructed or intended for habitation; (*Added 73 of 1983 s. 2*)

**domestic building** (住用建築物) means a building constructed or intended to be used for habitation and the expression **domestic purposes** (住用用途) shall be construed accordingly; (*Added 73 of 1983 s. 2*)

**drain** (排水渠) means a drain used for the drainage of one building and any buildings and yards appurtenant thereto; (*Added 44 of 1959 s. 2*)

**drainage works** (排水工程) means any work connected with the construction, repair, alteration, disconnection, trapping and ventilation of drains or sewers; (*Added 44 of 1959 s. 2*)

**electronic record** (電子紀錄) has the same meaning as in section 2(1) of the Electronic Transactions Ordinance (Cap. 553); (*Added 20 of 2008 s. 3*)

**emergency vehicular access** (緊急車輛通道), in relation to a building, means a vehicular access used or to be used for access of a vehicle of the Fire Services Department to the building in the event of a fire or other emergency; (*Added 15 of 2004 s. 2*)

**Engineers Registration Board** (工程師註冊管理局) means the Engineers Registration Board established by section 3 of the Engineers Registration Ordinance (Cap. 409); (*Added 54 of 1996 s. 2*)

**escalator** (自動梯) means an escalator as defined by section 2(1) of the Lifts and Escalators Ordinance (Cap. 618); (*Replaced 8 of 2012 ss. 156 & 160*)

**external wall** (外牆) means the whole, or any part, of an outer wall of a building even though adjoining a wall of another building and includes a party wall; (*Added 16 of 2011 s. 4*)

**frontagers** (臨街處所擁有人) means, in the case of a private street the owners of premises fronting, joining or abutting on such street, and in the case of an access road the owners of premises to which such road provides access; (*Added 44 of 1959 s. 2*)

**ground investigation** (土地勘測) means any exploratory drilling, boring, excavating and probing of land for obtaining any information on ground conditions and includes the installation of instruments, sampling, field testing, any other site operation and laboratory testing of samples obtained from such operations; (*Added 41 of 1982 s. 2*)

**groundwater drainage works** (地下水排水工程) means any work or installation connected with the draining of water flowing, percolating or lying under the surface of land but does not include drainage works as defined in this section; (*Added 41 of 1982 s. 2*)

**habitation** (居住) in relation to the use of a building, or part of a building, includes use of it for hotel, guest-house, boarding-house, hostel, dormitory or similar accommodation; (*Added 73 of 1983 s. 2*)

**hand-dug caisson** (人工挖掘沉箱) means any foundation or earth-retaining structure, or part thereof, the construction of which includes the excavation of a shaft in the ground by means of digging carried out by any person inside the shaft with or without the aid of machine tools; (*Added 6 of 1995 s. 2*)

**Land Registry** (土地註冊處) means the Land Registry referred to in section 2(1) of the Land Registration Ordinance (Cap. 128); (*Added 55 of 1996 s. 2*)

**lift** (升降機) means a lift as defined by section 2(1) of the Lifts and Escalators Ordinance (Cap. 618); (*Replaced 8 of 2012 ss. 156 & 160*)

**minor works** (小型工程) means building works designated in the regulations as minor works for the purposes of this definition; (*Added 20 of 2008 s. 3*)

**new building** (新建築物) means any building hereafter erected and also any existing building of which not less than one half measured by volume is rebuilt or which is altered to such an extent as to necessitate the reconstruction of not less than one half of the superficial area of the main walls;

**non-domestic** (非住用), when used in relation to a part of a composite building, means a part that is constructed or intended for use otherwise than for habitation; (*Added 73 of 1983 s. 2*)

**non-domestic building** (非住用建築物) means a building that is not a domestic building; (*Added 73 of 1983 s. 2*)

**occupier** (佔用人) means in the case of domestic buildings a person resident therein and in the case of other buildings means a person carrying on an occupation full-time in such building;

**oil storage installation** (貯油裝置) means any tank having a capacity of not less than 110 000 litres, or a group of tanks any one of which is a tank having a capacity of not less than 110 000 litres, constructed above ground level for the purpose of storing petroleum products; (*Added 16 of 1978 s. 2. Amended 68 of 1993 s. 2*)

**owner** (擁有人) includes any person holding premises direct from the Government whether under lease, licence or otherwise, any mortgagee in possession and any person receiving the rent of any premises, solely or with another, on his own behalf or that of any person, or who would receive the same if such premises were let to a tenant, and where such owner as above defined cannot be found or ascertained or is absent from Hong Kong or is under disability, the agent of such owner; (*Amended 29 of 1998 s. 105; 62 of 2000 s. 3*)

**performance review** (表現檢討) means a report in respect of building works, submitted by an authorized person, stating and justifying that the building works have been inspected and monitored in the course of construction and that the geotechnical design assumptions upon which the building works have been based are valid; (*Added 41 of 1982 s. 2*)

**petroleum products** (石油產品) means crude petroleum or petroleum feed-stock and includes—

- (a) semi-refined petroleum; and
- (b) wholly refined petroleum,

which is liquid or solid at ambient temperatures and pressures; (*Replaced 68 of 1993 s. 2*)

**place of public entertainment** (公眾娛樂場所) and **public entertainment** (公眾娛樂) have the same meanings assigned to them, respectively, by the Places of Public Entertainment Ordinance (Cap. 172); (*Added 72 of 1995 s. 15*)

**plan** (圖則) includes drawings, details, diagrams, calculations, structural details, structural calculations, geotechnical details and geotechnical calculations; (*Added 44 of 1959 s. 2. Amended 15 of 2004 s. 2*)

**prescribed building professional** (訂明建築專業人士) means an authorized person, a registered structural engineer, a registered geotechnical engineer or a registered inspector; (*Added 20 of 2008 s. 3. Amended 16 of 2011 s. 4*)

**prescribed inspection** (訂明檢驗) means an examination or assessment of a building as prescribed in the regulations; (*Added 16 of 2011 s. 4*)

**prescribed qualification** (訂明資格) means the qualification prescribed under this Ordinance or by the respective Registration Ordinance for inclusion in the respective register; (*Added 54 of 1996 s. 2*)

**prescribed registered contractor** (訂明註冊承建商) means a registered general building contractor, registered specialist contractor or registered minor works contractor; (*Added 20 of 2008 s. 3*)

**prescribed repair** (訂明修葺) means a repair or testing of a building as prescribed in the regulations; (*Added 16 of 2011 s. 4*)

**private street** (私家街道) means a street on land held under lease, licence or otherwise from the Government or on land over which the Government has granted a right of way; (*Added 44 of 1959 s. 2. Amended 29 of 1998 s. 105*)

**qualified person** (合資格人士) means a person whose name is for the time being on any of the following registers—

- (a) authorized persons' register kept under section 3(1);
- (b) structural engineers' register kept under section 3(3);
- (c) inspectors' register kept under section 3(3B);

- (d) register of general building contractors kept under section 8A;
- (e) register or provisional register of minor works contractors, under the class, type and item of minor works in respect of windows, kept under section 8A,  
and who is not subject to any disciplinary order under section 7(2)(bb) or (d) or 13(4)(d) or (e); *(Added 16 of 2011 s. 4)*

**register** (名冊) means a register maintained under this Ordinance and includes a sub-register; *(Added 54 of 1996 s. 2)*

**registered architect** (註冊建築師) means a person whose name is on the register of registered architects established and maintained under section 8 of the Architects Registration Ordinance (Cap. 408); *(Added 54 of 1996 s. 2)*

**registered general building contractor** (註冊一般建築承建商) means a person whose name is for the time being on the register of general building contractors maintained under section 8A; *(Added 54 of 1996 s. 2)*

**registered geotechnical engineer** (註冊岩土工程師) means a person whose name is for the time being on the geotechnical engineers' register kept under section 3(3A); *(Added 15 of 2004 s. 2)*

**registered inspector** (註冊檢驗人員) means a person whose name is for the time being on the inspectors' register kept under section 3(3B); *(Added 16 of 2011 s. 4)*

**registered minor works contractor** (註冊小型工程承建商) means a person whose name is for the time being on the register or provisional register of minor works contractors maintained under section 8A; *(Added 20 of 2008 s. 3)*

**registered professional engineer** (註冊專業工程師) means a person whose name is on the register of registered professional engineers established and maintained under section 7 of the Engineers Registration Ordinance (Cap. 409);  
*(Added 54 of 1996 s. 2)*

**registered professional surveyor** (註冊專業測量師) means a person whose name is on the register of registered professional surveyors established and maintained under section 7 of the Surveyors Registration Ordinance (Cap. 417);  
*(Added 54 of 1996 s. 2)*

**registered specialist contractor** (註冊專門承建商) means a person whose name is for the time being on the register of specialist contractors maintained under section 8A;  
*(Added 54 of 1996 s. 2)*

**registered structural engineer** (註冊結構工程師) means a person whose name is for the time being on the structural engineers' register kept under section 3(3);  
*(Added 52 of 1974 s. 2)*

**Registration Committee** (註冊事務委員會) means an Authorized Persons Registration Committee, a Structural Engineers Registration Committee, a Geotechnical Engineers Registration Committee, an Inspectors Registration Committee or a Contractors Registration Committee, as the case requires;  
*(Added 54 of 1996 s. 2. Amended 15 of 2004 s. 2; 16 of 2011 s. 4)*

**Registration Ordinance** (註冊條例) means the Architects Registration Ordinance (Cap. 408), the Engineers Registration Ordinance (Cap. 409) or the Surveyors Registration Ordinance (Cap. 417), as the case may be;  
*(Added 54 of 1996 s. 2)*

**regulations** (規例) means rules and regulations made under this Ordinance;

**scheduled areas** (附表所列地區) means the areas specified in Schedule 5 and references to a building or building works in the scheduled areas are, in the case of a building or building works situated partly in one of the scheduled areas, references to that part of the building or building works so situated; (*Replaced 52 of 1990 s. 2. Amended 16 of 2011 s. 4*)

**Secretary** (局長) means the Secretary for Development; (*Added 20 of 2008 s. 3*)

**sewer** (污水渠) does not include a drain as defined in this section, but includes all sewers and drains used for the drainage of more than one building and any buildings and yards appurtenant thereto; (*Added 44 of 1959 s. 2*)

**signboard** (招牌) means a hoarding, framework, scaffolding or other structure erected solely for the purpose of displaying any advertisement, making any announcement or notification, or displaying any visual image or other information; (*Added 15 of 2004 s. 2*)

**simplified requirements** (簡化規定) means any requirements prescribed in the regulations as simplified requirements for the purposes of this definition; (*Added 20 of 2008 s. 3*)

**site formation works** (地盤平整工程) includes excavations on sloping land, filling, landslip preventive works, landslip remedial works and ground water drainage works; (*Added 72 of 1980 s. 3. Amended 41 of 1982 s. 2*)

**specialized works** (專門工程) means building works or street works designated as specialized works under section 2A; (*Replaced 20 of 2008 s. 3*)

**specified** (指明), in relation to a form, means specified by the Building Authority under section 22(4); (*Added 68 of 1993 s. 2*)

***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; (*Added 20 of 2008 s. 3*)

***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); (*Added 20 of 2008 s. 3*)

***street*** (街道) includes the whole or any part of any square, court or alley, highway, lane, road, road-bridge, footpath, or passage whether a thoroughfare or not;

***street works*** (街道工程) means any work for the construction, formation or laying out of any private street or access road, including the surfacing, channelling, draining and lighting thereof, or for the reconstruction, alteration or repair thereof; (*Added 44 of 1959 s. 2*)

***supervision plan*** (監工計劃書) means a plan setting out the plan of safety management of building works or street works prepared in compliance with the technical memorandum issued under section 39A; (*Added 54 of 1996 s. 2. Amended 15 of 2004 s. 2*)

**Surveyors Registration Board** (測量師註冊管理局) means the Surveyors Registration Board established by section 3 of the Surveyors Registration Ordinance (Cap. 417); (*Added 54 of 1996 s. 2*)

**ventilating system** (通風系統) means a mechanical system for introducing or exhausting air; (*Added 23 of 1971 s. 2*)

**water pipe** (水管) means any water carrying pipe and fittings thereto other than a drain or sewer but does not include any pipe or fitting forming any part of a fire service or inside service within the meaning of the Waterworks Ordinance (Cap. 102) the costs of maintenance of which shall, under section 17(2)(b) of that Ordinance, be borne by the Water Authority. (*Added 55 of 1996 s. 2*)

(Amended 43 of 1993 s. 2; 54 of 1996 s. 2)

- (1A) Where this Ordinance refers to a person's certifying minor works commenced under the simplified requirements, it means the certification by the person of anything that is required by the regulations to be certified in respect of such minor works. (*Added 20 of 2008 s. 3*)
- (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. (*Added 20 of 2008 s. 3*)
- (2) The duties imposed on and the powers granted to the Building Authority under this Ordinance may be carried out and exercised by an officer of any Department of the Government specified in Schedule 4 who is authorized by the Director of Buildings either generally or particularly and subject to his instructions. (*Amended L.N. 76 of 1982; 73 of 1985 s. 2; L.N. 94 of 1986; L.N. 291 of 1993; 16 of 2011 s. 4*)
- (3) The Legislative Council may by resolution amend Schedule 4, 5 or 8. (*Added 73 of 1985 s. 2. Amended 6 of 1995 s. 2; 16 of 2011 s. 4; 24 of 2012 s. 3*)
- (4) Any reference in Part 1 or 7 to registration in any register shall be construed as the inclusion, retention, further retention or restoration of a person's name in or to the relevant register, as the case may require. (*Added 77 of 1994 s. 2*)

*(Amended E.R. 1 of 2012)*

## **2A. Designation of specialized works**

- (1) The Building Authority may designate any category of building works or street works as specialized works.
- (2) The Building Authority shall notify in the Gazette a designation under subsection (1).
- (3) The notification in subsection (2) is not subsidiary legislation.

*(Addd 20 of 2008 s. 4)*

## Part 1

### Authorized Persons, Registered Structural Engineers, Registered Geotechnical Engineers, Registered Inspectors and Registered Contractors

(*Part 1 replaced 44 of 1959 s. 3. Amended 52 of 1974 s. 3; 43 of 1987  
s. 44; 54 of 1996 s. 3; 15 of 2004 s. 3; 16 of 2011 s. 5*)

#### 3. Registers of authorized persons, structural engineers, geotechnical engineers and inspectors

(*Amended 16 of 2011 s. 6*)

- (1) The Building Authority shall keep a register (hereinafter referred to as the *authorized persons' register*) of all persons who are qualified to perform the duties and functions of an authorized person in accordance with this Ordinance.
- (2) The authorized persons' register contains—
  - (a) a list of architects;
  - (b) a list of engineers; and
  - (c) a list of surveyors. (*Replaced 54 of 1996 s. 4*)
- (3) The Building Authority shall keep a register (hereinafter referred to as the *structural engineers' register*) of all persons who are qualified to perform the duties and functions of structural engineers (relating to more advanced structural designs of building works or street works) in accordance with this Ordinance.

- (3A) The Building Authority shall keep a register (hereinafter referred to as the *geotechnical engineers' register*) of all persons who are qualified to perform the duties and functions of geotechnical engineers (relating to geotechnical designs of building works or street works) in accordance with this Ordinance. *(Added 15 of 2004 s. 4)*
- (3B) The Building Authority must keep a register (the *inspectors' register*) of all persons who are qualified to perform the duties and functions of inspectors in accordance with this Ordinance. *(Added 16 of 2011 s. 6)*
- (3C) The inspectors' register contains—
- (a) a list of architects;
  - (b) a list of engineers; and
  - (c) a list of surveyors. *(Added 16 of 2011 s. 6)*
- (4) The Building Authority shall publish annually in the Gazette the names of—
- (a) the persons included in each of the lists in the authorized persons' register; *(Amended 15 of 2004 s. 4)*
  - (b) the persons included in the structural engineers' register; *(Amended 15 of 2004 s. 4; 16 of 2011 s. 6)*
  - (c) the persons included in the geotechnical engineers' register; and *(Added 15 of 2004 s. 4. Amended 16 of 2011 s. 6)*
  - (d) the persons included in each of the lists in the inspectors' register. *(Added 16 of 2011 s. 6)*

- (5) The Building Authority is to establish 4 panels with sufficient members from whom he is to appoint committees to be known respectively as Authorized Persons Registration Committees, Structural Engineers Registration Committees, Geotechnical Engineers Registration Committees and Inspectors Registration Committees. The Building Authority may appoint more than one Registration Committee of each type at any one time. (*Replaced 54 of 1996 s. 4. Amended 15 of 2004 s. 4; 16 of 2011 s. 6*)
- (5A) The function of a Registration Committee is to assist the Building Authority in considering applications for inclusion in the relevant register by—
- (a) examining the qualifications of applicants;
  - (b) inquiring as the relevant Registration Committee considers necessary to ascertain whether an applicant has the relevant experience;
  - (c) conducting professional interviews with applicants; and
  - (d) advising the Building Authority to accept, defer or reject applications for inclusion in the relevant register. (*Added 54 of 1996 s. 4*)
- (5B) An Authorized Persons Registration Committee consists of—
- (a) 4 authorized persons nominated by the Architects Registration Board from the list of architects in the authorized persons' register;
  - (b) 2 authorized persons nominated by the Engineers Registration Board from the list of engineers in the authorized persons' register;
  - (c) 1 authorized person nominated by the Surveyors Registration Board from the list of surveyors in the authorized persons' register;

- (d) an Assistant Director of Buildings nominated by the Building Authority; and
  - (e) 1 person selected by the Building Authority from among the persons nominated in accordance with subsection (5E). *(Added 54 of 1996 s. 4)*
- (5C) A Structural Engineers Registration Committee consists of—
- (a) 3 registered structural engineers nominated by the Engineers Registration Board;
  - (b) 1 authorized person nominated by the Architects Registration Board from the list of architects in the authorized persons' register;
  - (c) 1 authorized person nominated by the Surveyors Registration Board from the list of surveyors in the authorized persons' register;
  - (d) an Assistant Director of Buildings nominated by the Building Authority; and
  - (e) 1 person selected by the Building Authority from among the persons nominated in accordance with subsection (5E). *(Added 54 of 1996 s. 4)*
- (5CA) A Geotechnical Engineers Registration Committee consists of—
- (a) 3 registered geotechnical engineers nominated by the Engineers Registration Board;
  - (b) 1 authorized person nominated by the Architects Registration Board from the list of architects in the authorized persons' register;
  - (c) 1 authorized person nominated by the Surveyors Registration Board from the list of surveyors in the authorized persons' register;

- (d) 1 registered structural engineer nominated by the Engineers Registration Board;
  - (e) 1 person nominated by the Building Authority as his representative;
  - (f) 1 public officer of the rank of Government Geotechnical Engineer nominated by the Director of Civil Engineering and Development; and
  - (g) 1 person selected by the Building Authority from among the persons nominated in accordance with subsection (5E). *(Replaced 20 of 2008 s. 5)*
- (5CB) An Inspectors Registration Committee consists of—
- (a) 1 registered inspector nominated by the Architects Registration Board from the list of architects in the inspectors' register;
  - (b) 1 registered inspector nominated by the Engineers Registration Board from the list of engineers in the inspectors' register;
  - (c) 1 registered inspector nominated by the Surveyors Registration Board from the list of surveyors in the inspectors' register;
  - (d) 1 person nominated by the Building Authority as the Building Authority's representative; and
  - (e) 1 person selected by the Building Authority from among the persons nominated in accordance with subsection (5E). *(Added 16 of 2011 s. 6)*
- (5D) The Building Authority is to appoint an officer of the Buildings Department as the secretary of each Registration Committee, who is not a member of either Registration Committee and may not cast a vote. *(Added 54 of 1996 s. 4)*

- (5E) For the purpose of subsections (5B), (5C), (5CA) and (5CB), the Building Authority is to invite such bodies as the Building Authority may think fit to nominate persons for the Building Authority to consider for appointment to each of the respective Registration Committees. *(Added 54 of 1996 s. 4. Amended 15 of 2004 s. 4; 16 of 2011 s. 6)*
- (5F) A person appointed to be a member of the Authorized Persons', Registered Structural Engineers' and Registered Geotechnical Engineers' Disciplinary Board Panel under section 5A must not be a member of a Registration Committee (other than an Inspectors Registration Committee). *(Added 54 of 1996 s. 4. Amended 15 of 2004 s. 4; 16 of 2011 s. 6)*
- (5FA) A person appointed to be a member of the Registered Inspectors' Disciplinary Board Panel under section 5A must not be a member of an Inspectors Registration Committee. *(Added 16 of 2011 s. 6)*
- (5G) The quorum for a meeting of a Registration Committee (other than a Geotechnical Engineers Registration Committee or an Inspectors Registration Committee) is— *(Amended 15 of 2004 s. 4; 16 of 2011 s. 6)*
- (a) the Chairman of the committee;
  - (b) the Assistant Director of Buildings nominated under subsection (5B)(d) or (5C)(d); and
  - (c) 3 other members for an Authorized Persons Registration Committee and 2 other members for a Structural Engineers Registration Committee. *(Added 54 of 1996 s. 4)*
- (5GA) The quorum for a meeting of a Geotechnical Engineers Registration Committee is—
- (a) the Chairman of the committee;

- (b) the Building Authority's representative under subsection (5CA)(e); (*Amended 20 of 2008 s. 5*)
  - (c) the public officer nominated under subsection (5CA)(f); and (*Amended 20 of 2008 s. 5*)
  - (d) 2 other members. (*Added 15 of 2004 s. 4*)
- (5GB) The quorum for a meeting of an Inspectors Registration Committee is—
- (a) the Chairman of the committee;
  - (b) the Building Authority's representative under subsection (5CB)(d); and
  - (c) 1 other member. (*Added 16 of 2011 s. 6*)
- (5H) At least one member of the Registration Committee (other than an Inspectors Registration Committee) at a meeting hearing an application for inclusion in a register must be— (*Amended 16 of 2011 s. 6*)
- (a) for an Authorized Persons Registration Committee, on the same list in the authorized persons' register as that on which the applicant wishes to be included; (*Amended 15 of 2004 s. 4*)
  - (b) for a Structural Engineers Registration Committee, a registered structural engineer; and (*Added 54 of 1996 s. 4. Amended 15 of 2004 s. 4; 20 of 2008 s. 5*)
  - (c) for a Geotechnical Engineers Registration Committee under subsection (5CA)(a), a registered professional engineer nominated under that subsection. (*Added 15 of 2004 s. 4. Amended 20 of 2008 s. 5*)
  - (d) (*Repealed 20 of 2008 s. 5*)
- (5I) The Chairman of a Registration Committee is elected by its members. (*Added 54 of 1996 s. 4*)

- (5J) A Registration Committee is required to meet as often as the Building Authority directs. (*Added 54 of 1996 s. 4*)
- (6) Every applicant for inclusion in the authorized persons' register, the structural engineers' register, the geotechnical engineers' register or the inspectors' register shall submit his application in the specified form to the secretary of the respective Registration Committee. (*Amended 68 of 1993 s. 3; 15 of 2004 s. 4; 16 of 2011 s. 6*)
- (6A) An applicant under subsection (6)—
  - (a) (*Repealed 15 of 2004 s. 4*)
  - (b) shall pay—
    - (i) upon submission of the application, the non-refundable prescribed fee for processing of the application;
    - (ii) upon the application being granted, the respective prescribed fees for inclusion and retention of his name in the appropriate register. (*Replaced 39 of 2000 s. 2*)
- (7) A person must not be included in a register unless—
  - (a) he has obtained the prescribed qualifications; and
  - (b) subject to subsection (7AA), he is recommended by the respective Registration Committee for inclusion. (*Replaced 54 of 1996 s. 4. Amended 16 of 2011 s. 6*)
- (7AA) A person may be included in the inspectors' register without recommendation by an Inspectors Registration Committee if the person is—
  - (a) an authorized person or a registered structural engineer with relevant experience as prescribed in the regulations; or

- (b) within the period of 12 months beginning on the commencement\* of section 6 of the Buildings (Amendment) Ordinance 2011 (16 of 2011)—
- (i) a registered architect nominated by the Architects Registration Board with not less than 5 years of experience in building design, construction, repair and maintenance before the nomination;
  - (ii) a registered professional engineer nominated by the Engineers Registration Board with not less than 5 years of experience in building design, construction, repair and maintenance before the nomination; or
  - (iii) a registered professional surveyor nominated by the Surveyors Registration Board with not less than 5 years of experience in building design, construction, repair and maintenance before the nomination. *(Added 16 of 2011 s. 6)*
- (7A) If an applicant for inclusion in a register fails to satisfy subsection (7), the Building Authority shall refuse the application. *(Added 54 of 1996 s. 4)*
- (7B) If an applicant for inclusion in a register satisfies subsection (7), the Building Authority shall grant the application unless for other reasons he thinks fit to refuse the application. *(Added 54 of 1996 s. 4)*
- (7C) The Building Authority shall give reasons in writing to—
- (a) the applicant for the refusal of an application for inclusion in a register;
  - (b) the respective Registration Committee for the refusal of an application for inclusion in a register,
- and the reasons must refer to the requirements of subsections (7) and (7B). *(Added 54 of 1996 s. 4)*

- (7D) In subsections (7), (7A), (7B) and (7C), *register* (名冊) means the authorized persons' register kept under subsection (1), the structural engineers' register kept under subsection (3), the geotechnical engineers' register kept under subsection (3A) or the inspectors' register kept under subsection (3B), as the case requires. (*Replaced 16 of 2011 s. 6*)
- (8) Subject to subsection (7), a person's name may be included in more than one of the following registers— (*Amended 15 of 2004 s. 4*)
- (a) the authorized persons' register;
  - (b) the structural engineers' register;
  - (c) the geotechnical engineers' register; and
  - (d) the inspectors' register, (*Added 16 of 2011 s. 6*)  
and in more than one list in the authorized persons' register or the inspectors' register. (*Amended 15 of 2004 s. 4; 16 of 2011 s. 6*)
- (9) In respect of every application for inclusion in any list in the authorized persons' register, in the structural engineers' register, in the geotechnical engineers' register or in any list in the inspectors' register (except for an application made by a person mentioned in subsection (7AA)), the Building Authority shall within 3 months from the date of the meeting of the respective Registration Committee at which the application was considered— (*Amended 15 of 2004 s. 4; 16 of 2011 s. 6*)
- (a) on payment by the applicant of the prescribed fees mentioned in subsection (6A)(b)(ii), publish in the Gazette and enter in the appropriate list or, as the case may be, register the name of that applicant; or (*Replaced 39 of 2000 s. 2*)

- (b) inform the applicant that his application is deferred for a period not exceeding 12 months; or
  - (c) refuse his application.
- (9AA) For an application made by a person mentioned in subsection (7AA) for inclusion in any list in the inspectors' register, the Building Authority must within 1 month after the date of receiving the application—
- (a) on payment by the applicant of the prescribed fees mentioned in subsection (6A)(b)(ii), publish in the Gazette and enter in the appropriate list the name of that applicant; or
  - (b) refuse the application. *(Added 16 of 2011 s. 6)*
- (9A) An application that has been deferred under subsection (9)(b) shall, when it comes up for consideration again—
- (a) be accepted, so that the applicant is included in the appropriate list or registered, as the case may be, upon payment of the prescribed fee; or
  - (b) be refused. *(Added 57 of 1987 s. 3)*
- (9B) A person—
- (a) whose name is included or retained in or restored to the authorized persons' register, the structural engineers' register, the geotechnical engineers' register or the inspectors' register, under this section, *(Amended 16 of 2011 s. 6)*
  - (b) *(Repealed 15 of 2004 s. 4)*  
may apply to the Building Authority, in accordance with subsection (9C), for the further retention or retention, as may be appropriate, of his name in the register for a period of 5 years. *(Added 77 of 1994 s. 3. Amended 15 of 2004 s. 4)*

- (9C) An application under subsection (9B) shall be—
- (a) in the specified form;
  - (b) made so as to be received by the Building Authority not earlier than 4 months and not later than 28 days prior to the date of the expiry of the relevant registration; *(Replaced 54 of 1996 s. 4. Amended 20 of 2008 s. 5)*
  - (c) accompanied by the appropriate prescribed fee; and *(Added 77 of 1994 s. 3. Amended 20 of 2008 s. 5)*
  - (d) accompanied by a copy of a valid certificate of registration or of renewal of registration issued under the respective Registration Ordinance. *(Added 54 of 1996 s. 4)*
- (9D) The Building Authority shall refuse an application under subsection (9B) unless the applicant holds the prescribed qualifications for registration as an authorized person, a registered structural engineer, a registered geotechnical engineer or a registered inspector. *(Added 54 of 1996 s. 4. Amended 15 of 2004 s. 4; 16 of 2011 s. 6)*
- (9E) The registration of an authorized person, structural engineer, geotechnical engineer or inspector will continue to be in force if he makes an application for retention within the time limit and pays the retention fee until his application for retention is finalised by the Building Authority, subject to any decision of the relevant Disciplinary Board. *(Added 54 of 1996 s. 4. Amended 15 of 2004 s. 4; 16 of 2011 s. 6)*
- (10) *(Repealed 15 of 2004 s. 4)*
- (11) The Building Authority may remove from the authorized persons' register, the structural engineers' register, the geotechnical engineers' register or the inspectors' register, after sending by post notice of his intention to the last known address of the person, the name of any person who— *(Amended 15 of 2004 s. 4; 16 of 2011 s. 6)*

- (a) is deceased; or (*Amended 77 of 1994 s. 3*)
  - (b) is not practising the profession in respect of which the name of that person was included in the register. (*Replaced 75 of 1976 s. 2. Amended 77 of 1994 s. 3*)
  - (c) (*Repealed 77 of 1994 s. 3*)
- (11A) Subject to subsection (11AA), the Building Authority shall remove the name of a person from the authorized persons' register, the structural engineers' register, the geotechnical engineers' register or the inspectors' register if the Building Authority— (*Amended 16 of 2011 s. 6*)
- (a) does not receive an application made by the person in accordance with subsection (9C); or
  - (b) has refused an application made by the person under subsection (9D) and sent a notice by registered post to his last known address notifying him of the refusal. (*Replaced 20 of 2008 s. 5*)
- (11AA) The removal of a name under subsection (11A)(a) becomes effective immediately after the date of expiry of the existing registration. (*Added 20 of 2008 s. 5*)
- (11AB) A notice under subsection (11A)(b) shall specify the effective date of removal, which shall not be earlier than the date of expiry of the existing registration. (*Added 20 of 2008 s. 5*)
- (11B) The Building Authority shall remove a name included or retained in or restored to the authorized persons' register, the structural engineers' register, the geotechnical engineers' register or the inspectors' register under this section if the Building Authority receives notice that an authorized person, a registered structural engineer, a registered geotechnical engineer or a registered inspector has ceased to hold the prescribed qualifications by virtue of which he was registered. (*Added 54 of 1996 s. 4. Amended 15 of 2004 s. 4; 16 of 2011 s. 6*)

- (11C) The Building Authority shall give notice of the removal of a name from a register under subsection (11B), by prepaid registered post to the person's last known address. (*Added 54 of 1996 s. 4*)
- (12) A person whose name is removed under subsection (11A), (11B) or (11C) may, within 2 years beginning on the date the relevant registration expires, apply for the restoration of his name to the relevant register. (*Replaced 77 of 1994 s. 3*)
- (13) An application under subsection (12) shall—
- be in the specified form;
  - (*Repealed 54 of 1996 s. 4*)
  - be accompanied by the prescribed fee for such restoration and the prescribed fee for retention of registration for 5 years; and (*Added 77 of 1994 s. 3. Amended 15 of 2004 s. 4; 16 of 2011 s. 6*)
  - be accompanied by a copy of a valid certificate of registration or of renewal of registration issued under the respective Registration Ordinance. (*Added 54 of 1996 s. 4*)
- (13A) The Building Authority shall refuse an application under subsection (12) unless the applicant holds the prescribed qualifications for registration as an authorized person, a registered structural engineer, a registered geotechnical engineer or a registered inspector. (*Added 54 of 1996 s. 4. Amended 15 of 2004 s. 4; 16 of 2011 s. 6*)

- (14) Where the Building Authority allows an application made under subsection (6), (9B) or (12) he shall—
- (a) issue to the applicant as regards the relevant registration a certificate of registration, which shall be in effect until the expiry of that registration; and
  - (b) in the case of an application under subsection (12), restore the name of the applicant to the relevant register.  
*(Added 77 of 1994 s. 3)*
- (15) A registration under this section shall—
- (a) be effective, in the case of—
    - (i) an inclusion in or restoration to a register of a person's name, from the date of such inclusion or restoration; and
    - (ii) a retention or further retention of a person's name in a register, from the date of the expiry of the previous registration; and
  - (b) expire, unless the person's name is removed from the relevant register by order of a disciplinary board, at the expiry of 5 years from the effective date of registration calculated in accordance with paragraph (a).  
*(Replaced 54 of 1996 s. 4. Amended 15 of 2004 s. 4)*
- (16) The Building Authority is required to give reasons in writing for a decision not to include, retain or restore a person's name in a register at the time of giving notice of the refusal.  
*(Added 54 of 1996 s. 4)*

- (17) The Building Authority shall make available the information specified in subsection (18) for public inspection at any reasonable time to facilitate any member of the public to ascertain—
- (a) whether he is, in relation to any matter connected with any activity under this Ordinance, dealing with a person registered under this section; and
  - (b) the particulars of a person so registered. *(Added 20 of 2008 s. 5)*
- (18) The information specified for the purposes of subsection (17) is the name, the registration number and the expiry date of the registration of any person registered under this section. *(Added 20 of 2008 s. 5)*

*(Replaced 52 of 1974 s. 4. Amended 54 of 1996 s. 4)*

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Editorial Note:

\* Commencement date: 30 December 2011.

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

- (1) Subject to subsection (1A), every person for whom building works or street works are to be carried out shall appoint— *(Amended 20 of 2008 s. 6)*
- (a) an authorized person as the co-ordinator of such building works or street works; *(Amended 15 of 2004 s. 5)*
  - (b) a registered structural engineer for the structural elements of such building works or street works if so required under this Ordinance; and *(Amended 54 of 1996 s. 5; 15 of 2004 s. 5)*
  - (c) a registered geotechnical engineer for the geotechnical elements of such building works or street works if so required under this Ordinance. *(Added 15 of 2004 s. 5)*

- (1A) Subsection (1) does not apply in respect of minor works commenced under the simplified requirements. (*Added 20 of 2008 s. 6*)
- (2) If an authorized person, a registered structural engineer or a registered geotechnical engineer so appointed becomes unwilling to act or unable, whether by reason of the termination of his appointment or for any other reason, to act, the person for whom the building works or street works are to be or are being carried out shall appoint another authorized person, registered structural engineer or registered geotechnical engineer, as the case may be, in his stead:  
Provided that, where an authorized person, a registered structural engineer or a registered geotechnical engineer, is temporarily unable to act by reason of his illness or absence from Hong Kong, he may nominate another authorized person, registered structural engineer or registered geotechnical engineer to act in his stead for the period of such illness or absence. (*Amended 15 of 2004 s. 5*)
- (3) Any authorized person, any registered structural engineer and any registered geotechnical engineer appointed or nominated under subsection (1) or (2) shall— (*Amended 15 of 2004 s. 5*)
- (a) supervise the carrying out of the building works or street works, as the case may be, in accordance with the supervision plan; (*Amended 54 of 1996 s. 5*)
  - (b) notify the Building Authority of any contravention of the regulations which would result from the carrying out of any work shown in any plan approved by the Building Authority in respect of the building works or street works; and
  - (c) comply generally with this Ordinance.

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- (4) A structural engineer may not be appointed under subsection (1)(b) unless he is registered in the structural engineers' register. *(Amended 54 of 1996 s. 5)*
  - (5) A geotechnical engineer may not be appointed under subsection (1)(c) unless he is registered in the geotechnical engineers' register. *(Added 15 of 2004 s. 5)*

*(Replaced 52 of 1974 s. 4)*

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

*(Added 20 of 2008 s. 7)*

**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 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 plan or partly approved plan under the Town Planning Ordinance (Cap. 131) or any draft plan prepared under that Ordinance; (*Replaced 25 of 2023 s. 106*)
- (f) if minor works commenced under the simplified requirements are carried out within a comprehensive development area of an approved plan or partly approved plan under the Town Planning Ordinance (Cap. 131) or a draft plan prepared under that Ordinance, 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 (*Amended 25 of 2023 s. 106*)
- (g) comply generally with this Ordinance.

(Added 20 of 2008 s. 7)

## 5. Appointment and powers of disciplinary board

- (1) For the purposes of section 7, the Secretary may, from time to time, appoint a disciplinary board. (*Amended 77 of 1994 s. 4; 36 of 1997 s. 2; L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007; 20 of 2008 s. 8*)
- (2) Every disciplinary board to conduct a hearing of disciplinary proceedings against an authorized person, a registered structural engineer or a registered geotechnical engineer consists of— (*Amended 16 of 2011 s. 7*)
  - (a) 4 persons who are members of the Authorized Persons', Registered Structural Engineers' and Registered Geotechnical Engineers' Disciplinary Board Panel appointed under section 5A, at least 1 of whom is on the same register and, in the case of the authorized persons' register, on the same list of the register as the person about whom the inquiry is being held; and (*Replaced 54 of 1996 s. 6. Amended 36 of 1997 s. 2; 15 of 2004 s. 6*)
  - (b) 1 person selected from among the persons nominated in accordance with subsection (3A). (*Replaced 36 of 1997 s. 2*)
  - (c) (*Repealed 54 of 1996 s. 6*)
- (2AA) Every disciplinary board to conduct a hearing of disciplinary proceedings against a registered inspector consists of—
  - (a) 4 persons who are members of the Registered Inspectors' Disciplinary Board Panel appointed under section 5A, of whom at least—
    - (i) 1 is a person mentioned in section 5A(2A)(a);
    - (ii) 1 is a person mentioned in section 5A(2A)(b);
    - (iii) 1 is a person mentioned in section 5A(2A)(c); and

- (b) 1 person selected from among the persons nominated in accordance with subsection (3A). *(Added 16 of 2011 s. 7)*
- (2A) The chairman of a disciplinary board shall appoint a legal adviser to assist in the conduct of the hearing of the disciplinary proceedings and to advise the disciplinary board on points of law that arise during the hearing. The disciplinary board may confer with the legal adviser after the conclusion of the hearing and before it hands down its decision but only after giving the person who is the subject of the hearing and his legal representative, if any, the right to be present while the legal adviser gives advice to the disciplinary board and the right to comment on the matters raised by the legal adviser to the disciplinary board. *(Added 54 of 1996 s. 6)*
- (2B) An authorized person, a registered structural engineer, a registered geotechnical engineer or a registered inspector, against whom disciplinary proceedings are taken, is entitled to be represented by a legal practitioner at disciplinary proceedings. *(Added 54 of 1996 s. 6. Amended 15 of 2004 s. 6; 16 of 2011 s. 7)*
- (3) The chairman of a disciplinary board appointed under this section shall be elected from the members of the board by its members. *(Amended 36 of 1997 s. 2)*
- (3A) For the purpose of subsections (2)(b) and (2AA)(b), the Building Authority is to invite such bodies as the Building Authority may think fit to nominate persons for the Secretary to consider for appointment to the disciplinary board. *(Added 36 of 1997 s. 2. Amended L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007; 20 of 2008 s. 8; 16 of 2011 s. 7)*
- (4) For the purposes of any inquiry under section 7, a disciplinary board appointed under this section shall have all such powers as are vested in the Court of First Instance in relation to— *(Amended 25 of 1998 s. 2)*

- (a) enforcing the attendance of witnesses and examining them upon oath or otherwise;
  - (b) compelling the production of documents;
  - (c) ordering the inspection of premises; and
  - (d) entering upon and viewing premises.
- (5) The members of any disciplinary board appointed under this section, other than persons who are in full-time employment in any office of emolument under the Government, shall be remunerated at such rate as the Chief Executive may determine from time to time or in any particular case.  
*(Amended 62 of 2000 s. 3)*

*(Replaced 52 of 1974 s. 4)*

*(Format changes—E.R. 2 of 2012)*

**5A. Authorized Persons', Registered Structural Engineers' and Registered Geotechnical Engineers' Disciplinary Board Panel and Registered Inspectors' Disciplinary Board Panel**

*(Amended 16 of 2011 s. 8)*

- (1) There shall be an Authorized Persons', Registered Structural Engineers' and Registered Geotechnical Engineers' Disciplinary Board Panel and a Registered Inspectors' Disciplinary Board Panel, both of which shall be appointed by the Chief Executive. *(Amended 62 of 2000 s. 3; 15 of 2004 s. 7; 16 of 2011 s. 8)*
- (2) The Authorized Persons', Registered Structural Engineers' and Registered Geotechnical Engineers' Disciplinary Board Panel consists of not more than 25 members, of whom not less than 1 and not more than— *(Amended 15 of 2004 s. 7)*
  - (a) 5 are authorized persons in the list of architects;
  - (b) 5 are authorized persons in the list of engineers;

- (c) 5 are authorized persons in the list of surveyors; (*Amended 15 of 2004 s. 7*)
  - (d) 5 are registered structural engineers; and (*Replaced 54 of 1996 s. 7. Amended 15 of 2004 s. 7*)
  - (e) 5 are registered geotechnical engineers. (*Added 15 of 2004 s. 7*)
- (2A) The Registered Inspectors' Disciplinary Board Panel consists of not more than 15 members, of whom not less than 1 and not more than—
- (a) 5 are registered inspectors in the list of architects;
  - (b) 5 are registered inspectors in the list of engineers; and
  - (c) 5 are registered inspectors in the list of surveyors. (*Added 16 of 2011 s. 8*)
- (2B) For the purpose of subsections (2) and (2A), each member of the relevant Panel may only take up one seat of membership in the Panel even if the member's name is included in more than one of the lists or registers mentioned in those subsections. (*Added 16 of 2011 s. 8*)
- (3) A person must not be appointed to be a member of the Panel referred to in subsection (2) or (2A) unless he has been recommended for the appointment by the Building Authority after consultation with the Architects Registration Board, the Engineers Registration Board or the Surveyors Registration Board respectively, as appropriate. (*Replaced 54 of 1996 s. 7. Amended 16 of 2011 s. 8*)
- (4) Members of the panel shall hold office for 3 years but shall be eligible for reappointment.

*(Added 52 of 1974 s. 4)*

*(Format changes—E.R. 2 of 2012)*

## **5AA. Secretary to the disciplinary board**

- (1) There shall be a secretary to the disciplinary board for the purpose of providing administrative services to a disciplinary board appointed under section 5.
- (2) The secretary to the disciplinary board shall be— *(Amended 16 of 2011 s. 9)*
  - (a) appointed by the Secretary; *(Amended L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007)*
  - (b) a public officer; and
  - (c) a person who is not a member of the disciplinary board appointed under section 5.

*(Added 36 of 1997 s. 3. Amended 16 of 2011 s. 9)*

6. *(Repealed 77 of 1994 s. 5)*

7. **Disciplinary proceedings for authorized person, registered structural engineer, registered geotechnical engineer or registered inspector**

*(Amended 16 of 2011 s. 10)*

- (1) The Building Authority may bring to the notice of a disciplinary board appointed under section 5 the matters set out in subsection (1A) in relation to an authorized person, a registered structural engineer, a registered geotechnical engineer or a registered inspector if the conduct referred to the disciplinary board may— *(Amended 15 of 2004 s. 8; 16 of 2011 s. 10)*
  - (a) render the person unfit to remain on the relevant register;
  - (b) make further inclusion of the person on the relevant register prejudicial to the due administration of this Ordinance; *(Amended 20 of 2008 s. 9)*

- (ba) render the person unfit for certifying any minor works commenced or to be commenced under the simplified requirements; (*Added 20 of 2008 s. 9*)
  - (bb) make further certification of minor works commenced or to be commenced under the simplified requirements by him prejudicial to the due administration of this Ordinance; (*Added 20 of 2008 s. 9; 16 of 2011 s. 10*)
  - (bc) render the person unfit for certifying any prescribed inspection, or certifying or supervising any prescribed repair; (*Added 16 of 2011 s. 10*)
  - (bd) make further certification of any prescribed inspection, or certification or supervision of any prescribed repair, by that person prejudicial to the due administration of this Ordinance; (*Added 16 of 2011 s. 10*)
  - (be) render the person deserving of suspension from certifying any prescribed inspection, or certifying or supervising any prescribed repair; or (*Added 16 of 2011 s. 10*)
  - (c) render the person deserving of suspension from the relevant register, a fine or a reprimand. (*Replaced 54 of 1996 s. 8. Amended 16 of 2011 s. 10*)
- (1A) The matters referred to in subsection (1) are that the person—
- (a) has been convicted by any court of an offence related to carrying out his professional duties;
  - (b) has been negligent or has misconducted himself in a professional way;
  - (c) has permitted a material deviation from a supervision plan for which he is responsible without reasonable cause;
  - (d) has drawn up a supervision plan that does not comply with the material requirements of this Ordinance;

- (e) has repeatedly drawn up supervision plans that do not comply with the requirements of this Ordinance; (*Added 54 of 1996 s. 8. Amended 20 of 2008 s. 9*)
  - (f) has certified minor works commenced under the simplified requirements that have been carried out in contravention of this Ordinance; (*Added 20 of 2008 s. 9*)
  - (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); (*Added 20 of 2008 s. 9*)
  - (h) has certified building works (other than minor works) as if it were minor works commenced under the simplified requirements; (*Added 20 of 2008 s. 9*)
  - (i) has supervised building works (other than minor works) as if it were minor works commenced under the simplified requirements; (*Added 20 of 2008 s. 9. Amended 16 of 2011 s. 10*)
  - (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; (*Added 20 of 2008 s. 9. Amended 16 of 2011 s. 10*)
  - (k) has failed to discharge the duties, or abide by the requirements, imposed on a registered inspector under this Ordinance; or (*Added 16 of 2011 s. 10*)
  - (l) has failed to discharge the duties, or abide by the requirements, imposed on a qualified person under this Ordinance. (*Added 16 of 2011 s. 10*)
- (2) Where, after due inquiry, the disciplinary board is satisfied that the authorized person, the registered structural engineer, the registered geotechnical engineer or the registered inspector has been convicted as described in subsection (1A)(a) or

done an act described in subsection (1A)(b), (c), (d), (e), (f), (g), (h) or (i) or has not carried out the duties mentioned in subsection (1A)(j) in respect of minor works commenced or to be commenced under the simplified requirements, or has failed to discharge the duties or abide by the requirements mentioned in subsection (1A)(k) or (l), the disciplinary board may— *(Amended 54 of 1996 s. 8; 15 of 2004 s. 8; 20 of 2008 s. 9; 16 of 2011 s. 10)*

- (a) order that the name of such person be removed—
  - (i) from the authorized persons', structural engineers' or geotechnical engineers' register, as the case may be; or
  - (ii) if his name appears in more than one such register, from those registers,either permanently or for such period as the board thinks fit; *(Amended 16 of 2011 s. 10)*
- (aa) order that the name of the person be removed from the inspectors' register, either permanently or for any period that the board thinks fit; *(Added 16 of 2011 s. 10)*
- (b) order that such person be reprimanded; *(Amended 15 of 2004 s. 8; 20 of 2008 s. 9)*
- (ba) order that the person be fined— *(Amended 16 of 2011 s. 10)*
  - (i) in the case of a prescribed inspection (other than a prescribed inspection in respect of a window in a building) or building works (other than minor works), a sum not exceeding \$250,000; or
  - (ii) in the case of a prescribed inspection in respect of a window in a building or minor works, a sum not exceeding \$150,000; *(Replaced 20 of 2008 s. 9. Amended 16 of 2011 s. 10)*

- (bb) order that the person be prohibited from certifying any minor works commenced or to be commenced under the simplified requirements, either permanently or for such period as the disciplinary board thinks fit; or *(Added 20 of 2008 s. 9. Amended 16 of 2011 s. 10)*
  - (c) *(Repealed 15 of 2004 s. 8)*
  - (d) order that the person be prohibited from certifying any prescribed inspection, or certifying or supervising any prescribed repair, in respect of a window in a building, either permanently or for any period that the disciplinary board thinks fit. *(Added 16 of 2011 s. 10)*
- (2A) Where the disciplinary board makes an order under subsection (2), it shall order that its findings and order be published in the Gazette. *(Added 15 of 2004 s. 8)*
- (3) On an inquiry under this section, a disciplinary board may make such order as it thinks fit with regard to the payment of the costs of the inquiry and the costs of the Building Authority or of the authorized person, registered structural engineer, registered geotechnical engineer or registered inspector in respect of whom the inquiry is held. *(Amended 16 of 2011 s. 10)*
- (3A) The amount referred to in subsection (2)(ba) and any costs of inquiry ordered to be paid under subsection (3) are recoverable as a debt due to the Government. *(Added 20 of 2008 s. 9)*
- (4) (a) Any authorized person, registered structural engineer, registered geotechnical engineer or registered inspector aggrieved by any order made in respect of him under this section may appeal to a judge of the Court of First Instance and upon any such appeal the judge may confirm, reverse or vary the order of the disciplinary

board. (*Amended 54 of 1996 s. 8; 25 of 1998 s. 2; 16 of 2011 s. 10*)

- (b) The practice in relation to any such appeal shall be subject to any rules of court made under the High Court Ordinance (Cap. 4). (*Amended 25 of 1998 s. 2*)

- (c) (*Repealed 16 of 2011 s. 10*)

(*Replaced 52 of 1974 s. 6. Amended 15 of 2004 s. 8; 16 of 2011 s. 10*)

(Format changes—E.R. 2 of 2012)

## 8. Contractors Registration Committee

- (1) The Building Authority is to establish a panel with sufficient members from whom he is to appoint committees to be known as Contractors Registration Committees. The Building Authority may appoint more than one Registration Committee at any one time.
- (2) The function of a Contractors Registration Committee is to assist the Building Authority in considering applications for inclusion in a register by—
  - (a) examining the qualifications of applicants;
  - (b) inquiring as the relevant Registration Committee considers necessary to ascertain whether an applicant has the relevant experience;
  - (c) conducting interviews with applicants; and
  - (d) advising the Building Authority to accept, defer or reject applications for inclusion in the relevant register.
- (3) In relation to a Contractors Registration Committee appointed to assist the Building Authority in considering applications for inclusion in a register of general building contractors kept under section 8A(1)(a), the Contractors Registration Committee consists of— (*Amended 15 of 2004 s. 9*)

- (a) the Building Authority's representative;
  - (b) 3 persons, 1 of whom is nominated by each of the Architects Registration Board, the Engineers Registration Board and the Surveyors Registration Board from the lists of authorized persons, registered structural engineers and registered geotechnical engineers; *(Amended 15 of 2004 s. 9)*
  - (c) 3 persons nominated by The Hong Kong Construction Association Ltd.;
  - (d) 1 person nominated by The Hong Kong E & M Contractors' Association Limited;
  - (e) 1 person selected by the Building Authority from among persons nominated by such bodies as the Building Authority may think fit.
- (3A) In relation to a Contractors Registration Committee appointed to assist the Building Authority in considering applications for inclusion in a register of specialist contractors kept under section 8A(1)(b), the Contractors Registration Committee consists of—
- (a) the Building Authority's representative;
  - (b) 3 persons, 1 of whom is nominated by each of the Architects Registration Board, the Engineers Registration Board and the Surveyors Registration Board from the lists of authorized persons, registered structural engineers and registered geotechnical engineers;
  - (c) 3 persons nominated by The Hong Kong Construction Association Ltd.; and
  - (d) 2 persons selected by the Building Authority from among persons nominated by such bodies as the Building Authority may think fit. *(Added 15 of 2004 s. 9)*

- (4) A Contractors Registration Committee is required to meet as often as the Building Authority directs.
- (5) A person who is a member of the Authorized Persons', Registered Structural Engineers' and Registered Geotechnical Engineers' Disciplinary Board Panel or the Registered Contractors' Disciplinary Board Panel is not eligible for appointment to the Contractors Registration Committee. *(Amended 15 of 2004 s. 9)*
- (6) The members of the committee elect the Chairman from the members of the committee other than the representative of the Building Authority.
- (7) The Building Authority appoints an officer of the Buildings Department as the secretary of the committee, who is not a member of the committee and may not cast a vote.
- (8) A quorum for a meeting of the committee is the Chairman, the Building Authority's representative and 3 other members of the committee.

*(Replaced 54 of 1996 s. 9)*

#### **8A. Registers of contractors, etc.**

- (1) The Building Authority is to keep—
  - (a) a register of general building contractors who are qualified to perform the duties of a general building contractor; *(Amended 20 of 2008 s. 10)*
  - (b) a register of specialist contractors who are qualified to carry out specialized works specified in the category in the sub-register in which they are entered; and *(Amended 20 of 2008 s. 10)*
  - (c) a register or provisional register of minor works contractors who are qualified to carry out minor works belonging to the class, type and item specified in the

register in which they are registered. (*Added 20 of 2008 s. 10*)

- (2) The Building Authority may by notice in the Gazette specify different categories of specialized works and is to maintain sub-registers in the register of specialist contractors for the different categories.
- (3) The Building Authority is required to publish a list of the names of the contractors in each register annually in the Gazette.
- (4) The Building Authority may remove from—
  - (a) the register of general building contractors the name of a registered general building contractor who ceases, for any reason, to engage in the business of building works or street works;
  - (b) the register of specialist contractors the name of a registered specialist contractor who ceases, for any reason, to engage in the relevant specialized works for which he is registered; and (*Amended 20 of 2008 s. 10*)
  - (c) the register or provisional register of minor works contractors the name of a registered minor works contractor who ceases, for any reason, to carry out minor works belonging to the class, type and item specified in the register in which he is registered. (*Added 20 of 2008 s. 10*)
- (5) The Building Authority may remove the name of a partner, director or other person appointed by a body corporate to act for it for the purposes of this Ordinance of a registered general building contractor, a registered specialist contractor or a registered minor works contractor— (*Amended 20 of 2008 s. 10*)
  - (a) whose name is removed under subsection (4); or

- (b) if a disciplinary board appointed under section 11 orders the removal of the name.
- (6) The Building Authority shall make available the information specified in subsection (7) for public inspection at any reasonable time to facilitate any member of the public to ascertain—
  - (a) whether he is, in relation to any matter connected with any activity under this Ordinance, dealing with a contractor registered under this Ordinance; and
  - (b) the particulars of a contractor so registered. *(Added 20 of 2008 s. 10)*
- (7) The information specified for the purposes of subsection (6) is—
  - (a) the name, registration number and the expiry date of the registration of any registered general building contractor, registered specialist contractor or registered minor works contractor; and
  - (b) the name of the person appointed by a registered contractor referred to in paragraph (a) to act on the registered contractor's behalf for the purposes of this Ordinance. *(Added 20 of 2008 s. 10)*

*(Added 54 of 1996 s. 9)*

## **8B. Application for registration as a contractor**

- (1) An applicant for registration as a general building contractor or a specialist contractor is required to apply to the Building Authority in the specified form.
- (2) An applicant must satisfy the Building Authority on—
  - (a) if it is a corporation, the adequacy of its management structure;

- (b) the appropriate experience and qualifications of his personnel;
  - (c) his ability to have access to plant and resources;
  - (d) the ability of the person appointed by the applicant to act for the applicant for the purposes of this Ordinance to understand building works and street works through relevant experience and a general knowledge of the basic statutory requirements.
- (3) An applicant for registration as a specialist contractor must satisfy the Building Authority that he has the necessary experience and, where appropriate, professional and academic qualifications, to undertake work in the specialist category.
- (4) *(Repealed 15 of 2004 s. 10)*
- (5) An applicant is to—
  - (a) *(Repealed 15 of 2004 s. 10)*
  - (b) pay the prescribed fee for the application.
- (6) The Building Authority is to refer an application to the relevant Contractors Registration Committee. *(Amended 15 of 2004 s. 10)*
- (7) The Building Authority, within 3 months of the date of the meeting of the relevant Contractors Registration Committee at which the application is considered, is required to— *(Amended 15 of 2004 s. 10)*
  - (a) on payment by the applicant of the prescribed fee for registering the applicant's name, publish it in the Gazette, enter it in the appropriate register and issue a certificate of registration; or
  - (b) inform the applicant that his application has been deferred for a period not exceeding 6 months; or
  - (c) refuse the application.

- (8) The Building Authority is to have regard to the qualifications, competence and experience of—
- (a) the applicant in considering an application for inclusion in the register of general building contractors or the register of specialist contractors;
  - (b) the directors, other officers and any person appointed by the applicant to act for it for the purposes of this Ordinance if the applicant is a body corporate,
- and may require the applicant to submit relevant information and documentary evidence to support a claim to qualifications, competence or experience.
- (9) The Building Authority may take into account relevant experience in Hong Kong as a qualification in considering an application for inclusion in the register of general building contractors.
- (10) The Building Authority must not include the name of an applicant in the register of general building contractors or the register of specialist contractors unless the relevant Contractors Registration Committee recommends him.  
*(Amended 15 of 2004 s. 10)*
- (11) A contractor's name may be included in both the register of general building contractors and the register of specialist contractors and in different sub-registers of specialist contractors if he has the relevant qualifications.
- (12) A registration under this section expires, unless the contractor's name is removed from the relevant register by order of a disciplinary board, on the expiry of 3 years beginning on the date of inclusion of his name in the register.  
*(Added 15 of 2004 s. 10)*

*(Added 54 of 1996 s. 9)*

## 8C. Renewal of registration as a contractor

- (1) A contractor may apply to the Building Authority for the renewal of his registration—
  - (a) if his name is on any one of the registers. (*Replaced 15 of 2004 s. 11*)
  - (b) (*Repealed 15 of 2004 s. 11*)
- (2) An application for renewal of registration must—
  - (a) be in the specified form;
  - (b) be accompanied by a declaration in the specified form, the information and the documentary proof that the Building Authority may reasonably require to be satisfied that the applicant is suitable to continue to be registered;
  - (c) be received by the Building Authority not earlier than 4 months and not later than 28 days prior to the date of the expiry of the relevant registration; and (*Amended 15 of 2004 s. 11*)
  - (d) (*Repealed 15 of 2004 s. 11*)
  - (e) be accompanied by the prescribed renewal fee.
- (3) The registration of a contractor will continue to be in force if he makes an application for renewal within the time limit and pays the renewal fee until his application for renewal is finalised by the Building Authority, subject to any decision of the Registered Contractors' Disciplinary Board.
- (4) The Building Authority may seek the advice of the relevant Contractors Registration Committee on the renewal of registration. (*Amended 15 of 2004 s. 11*)
- (5) The Building Authority may refuse an application for renewal of registration—

- (a) if he is satisfied that the applicant is no longer suitable (for any reason) for registration on the relevant register; or
  - (b) if the applicant fails to provide relevant information and documentary proof required by the Building Authority including, but not limited to, updated information on matters supplied on previous applications for registration or renewal of registration.
- (6) Subject to subsection (6A), the Building Authority shall remove the name of a person from a register if the Building Authority—
- (a) does not receive an application made by the person for renewal of registration made in accordance with subsection (2); or
  - (b) has refused an application made by the person under subsection (5) and sent a notice by registered post to his last known address notifying him of the refusal.  
*(Replaced 20 of 2008 s. 11)*
- (6A) The removal of a name under subsection (6)(a) becomes effective immediately after the date of expiry of the existing registration. *(Added 20 of 2008 s. 11)*
- (6B) A notice under subsection (6)(b) shall specify the effective date of removal, which shall not be earlier than the date of expiry of the existing registration. *(Added 20 of 2008 s. 11)*
- (7) The Building Authority is to issue a certificate of registration on renewing the registration of a contractor.
- (8) A registration renewed under this section expires, unless the contractor's name is removed from the relevant register by order of a disciplinary board, on the expiry of 3 years beginning on the date of the expiry of the previous registration. *(Added 15 of 2004 s. 11)*

*(Added 54 of 1996 s. 9)*

#### **8D. Restoring name to register of contractors**

- (1) A contractor whose name is removed under section 8C(6) may, within 2 years of the date of the expiry of the registration, apply for his name to be restored to the register.
- (2) An application under subsection (1) must—
  - (a) be accompanied by a declaration in the specified form, the information and the documentary proof that the Building Authority may reasonably require to be satisfied that the applicant is suitable to be registered; and *(Amended 15 of 2004 s. 12)*
  - (b) *(Repealed 15 of 2004 s. 12)*
  - (c) be accompanied by the prescribed restoration fee and the prescribed registration fee.
- (3) The Building Authority may seek the advice of the relevant Contractors Registration Committee on the restoration of name to the register. *(Amended 15 of 2004 s. 12)*
- (4) The Building Authority, if he allows an application, is to issue to the applicant a certificate of registration and restore the name of the applicant to the relevant register.
- (5) A registration restored under this section expires, unless the contractor's name is removed from the relevant register by order of a disciplinary board, on the expiry of 3 years beginning on the date of restoration of the applicant's name to the register. *(Added 15 of 2004 s. 12)*

*(Added 54 of 1996 s. 9)*

#### **8E. Building Authority to give reasons**

The Building Authority is required to give reasons in writing for a decision not to include, retain or restore a contractor's name in a

register at the time of giving notice of the refusal.

*(Added 54 of 1996 s. 9)*

**8F. Effective dates**

- (1) A registration is effective—
  - (a) for an initial registration or a restoration to a register, from the date of the registration or restoration; and
  - (b) for a renewal of registration, from the date of the expiry of the previous registration.
- (2) A registration expires on the expiry of the period specified in the certificate of registration unless the contractor's name is removed from the relevant register by order of a disciplinary board.
- (3) A reference to the expiry of a registration is construed according to this section. *(Amended 15 of 2004 s. 13)*

*(Added 54 of 1996 s. 9)*

**8G.** *(Repealed 15 of 2004 s. 14)*

**9. Appointment and duties of registered contractors**

- (1) A person is required to appoint a registered general building contractor to carry out for him building works or street works other than— *(Amended 20 of 2008 s. 12)*
  - (a) specialized works; and
  - (b) minor works. *(Amended 20 of 2008 s. 12)*
- (2) A person is required to appoint a registered specialist contractor to carry out for him specialized works (other than the specialized works designated as minor works) of the category for which the contractor is registered. *(Amended 20 of 2008 s. 12)*

- (3) A person is required to appoint another registered general building contractor to continue to carry out for him building works or street works other than specialized works if the appointed registered general building contractor for the works is unwilling or unable to act.
- (4) A person is required to appoint another registered specialist contractor to continue to carry out for him specialized works of the category for which the contractor is registered if the appointed registered specialist contractor for the works is unwilling or unable to act.
- (5) A registered general building contractor appointed to carry out building works or street works other than specialized works is required to—
  - (a) provide continuous supervision to the carrying out of the works in accordance with his supervision plan;
  - (b) notify the Building Authority of any contravention of the regulations that would result from carrying out the works shown in the plan approved by the Building Authority for the works; and
  - (c) comply generally with this Ordinance.
- (6) A registered specialist contractor appointed to carry out specialized works is required to—
  - (a) provide continuous supervision to the carrying out of the works in accordance with his supervision plan;
  - (b) notify the Building Authority of any contravention of the regulations that would result from carrying out the works shown in the plan approved by the Building Authority for the works; and
  - (c) comply generally with this Ordinance.
- (7) *(Repealed 15 of 2004 s. 15)*

*(Replaced 54 of 1996 s. 10)*

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

- (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
  - (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.

*(Added 20 of 2008 s. 13)*

#### **9A. Appeals from Registration Committees**

- (1) A person who is aggrieved by a decision of a Registration Committee under this Part may appeal to a judge of the Court of First Instance.
- (2) On an appeal the judge may confirm, reverse or vary the decision of the Registration Committee. *(Amended 16 of 2011 s. 12)*
- (3) The practice for the appeal is subject to any rules of court made under the High Court Ordinance (Cap. 4).
- (4) *(Repealed 16 of 2011 s. 12)*

*(Added 54 of 1996 s. 10. Amended 25 of 1998 s. 2)*

#### **10. *(Repealed 43 of 1993 s. 3)***

## 11. Appointment and powers of disciplinary board

- (1) The Secretary may from time to time, appoint a disciplinary board. (*Amended 77 of 1994 s. 7; 54 of 1996 s. 11; L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007; 20 of 2008 s. 14*)
- (2) Every board appointed to hear and determine any proceedings against a registered general building contractor shall consist of— (*Amended 77 of 1994 s. 7; 54 of 1996 s. 11*)
  - (a) 3 persons who are members of the Registered Contractors' Disciplinary Board Panel appointed under section 11A; (*Amended 36 of 1997 s. 4*)
  - (b) 4 persons who are members of the Authorized Persons', Registered Structural Engineers' and Registered Geotechnical Engineers' Disciplinary Board Panel appointed under section 5A of whom— (*Amended 54 of 1996 s. 11; 15 of 2004 s. 16*)
    - (i) 1 shall be a person referred to in section 5A(2)(a);
    - (ii) 1 shall be a person referred to in section 5A(2)(b); (*Amended E.R. 3 of 2017*)
    - (iii) 1 shall be a person referred to in section 5A(2)(c); and (*Amended E.R. 3 of 2017*)
    - (iv) 1 shall be a person referred to in section 5A(2)(d); (*Added 54 of 1996 s. 11*)
  - (c) 1 person selected from among the persons nominated in accordance with subsection (4A). (*Replaced 36 of 1997 s. 4*)
  - (d) (*Repealed 36 of 1997 s. 4*)
- (3) Every board appointed to hear and determine any proceedings under section 13 against a registered specialist contractor

shall consist of— (*Amended 43 of 1987 s. 44; 77 of 1994 s. 7; 54 of 1996 s. 11*)

- (a) 2 persons who are members of the Registered Contractors' Disciplinary Board Panel who are in the same sub-register of specialized works as the specialist contractor about whom the disciplinary board is to inquire; (*Replaced 54 of 1996 s. 11*)
- (b) (i) in the case where the matters to be brought to the notice of the board relate to geotechnical works, 5 persons who are members of the Authorized Persons', Registered Structural Engineers' and Registered Geotechnical Engineers' Disciplinary Board Panel of whom—
  - (A) 1 shall be a person referred to in section 5A(2)(a);
  - (B) 1 shall be a person referred to in section 5A(2)(b);
  - (C) 1 shall be a person referred to in section 5A(2)(c);
  - (D) 1 shall be a person referred to in section 5A(2)(d); and
  - (E) 1 shall be a person referred to in section 5A(2)(e); and
- (ii) in other cases, 4 persons who are members of the Panel referred to in subparagraph (i) of whom—
  - (A) 1 shall be a person referred to in section 5A(2)(a);
  - (B) 1 shall be a person referred to in section 5A(2)(b);
  - (C) 1 shall be a person referred to in section 5A(2)(c); and

- (D) 1 shall be a person referred to in section 5A(2)(d); (*Replaced 15 of 2004 s. 16*)
- (c) 1 person selected from among the persons nominated in accordance with subsection (4A). (*Replaced 36 of 1997 s. 4*)
- (d) (*Repealed 54 of 1996 s. 11*)
- (3AA) Every board appointed to hear and determine any proceedings against a registered minor works contractor shall consist of—
- (a) 2 persons who are members of the Registered Contractors' Disciplinary Board Panel appointed under section 11A;
- (b) 2 persons who are members of the Authorized Persons', Registered Structural Engineers' and Registered Geotechnical Engineers' Disciplinary Board Panel appointed under section 5A; and
- (c) 1 person selected from among the persons nominated in accordance with subsection (4A). (*Added 20 of 2008 s. 14*)
- (3A) The chairman of a disciplinary board shall appoint a legal adviser to assist in the conduct of the hearing of the disciplinary proceedings and to advise the disciplinary board on points of law that arise during the hearing. The disciplinary board may confer with the legal adviser after the conclusion of the hearing and before it hands down its decision but only after giving the person who is the subject of the hearing and his legal representative, if any, the right to be present while the legal adviser gives advice to the disciplinary board and the right to comment on the matters raised by the legal adviser to the disciplinary board. (*Added 54 of 1996 s. 11*)
- (3B) A registered general building contractor, a registered specialist contractor or a registered minor works contractor, against

whom disciplinary proceedings are taken, is entitled to be represented by a legal practitioner at disciplinary proceedings. (*Added 54 of 1996 s. 11. Amended 20 of 2008 s. 14*)

- (4) The chairman of a disciplinary board appointed under subsection (1) shall be elected from the members of the board by its members.
- (4A) For the purpose of subsections (2)(c), (3)(c) and (3AA)(c), the Building Authority is to invite such bodies as the Building Authority may think fit to nominate persons for the Secretary to consider for appointment to the disciplinary board. (*Added 36 of 1997 s. 4. Amended L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007; 20 of 2008 s. 14*)
- (5) For the purposes of any inquiry under section 13, a disciplinary board appointed under this section shall have all such powers as are vested in the Court of First Instance in relation to— (*Amended 25 of 1998 s. 2*)
  - (a) enforcing the attendance of witnesses and examining them upon oath or otherwise;
  - (b) compelling the production of documents;
  - (c) ordering the inspection of premises; and
  - (d) entering upon and viewing premises.
- (6) The members of any disciplinary board appointed under this section, other than persons who are in full-time employment in any office of emolument under the Government, shall be remunerated at such rate as the Chief Executive may determine from time to time or in any particular case. (*Added 16 of 1966 s. 4. Amended 62 of 2000 s. 3*)  
*(Amended 52 of 1974 s. 7; 36 of 1997 s. 4)*

## 11A. Contractors' Disciplinary Board Panel

- (1) There shall be a Registered Contractors' Disciplinary Board

Panel, which shall be appointed by the Chief Executive.  
*(Amended 62 of 2000 s. 3)*

- (2) *(Repealed 54 of 1996 s. 12)*
- (3) The members of the Registered Contractors' Disciplinary Board Panel shall hold office for 3 years but shall be eligible for reappointment.

*(Added 52 of 1974 s. 8)*

### **11AA. Secretary to the disciplinary board**

- (1) There shall be a secretary to the disciplinary board for the purpose of providing administrative services to a disciplinary board appointed under section 11.
- (2) The secretary to the disciplinary board shall be— *(Amended 16 of 2011 s. 13)*
  - (a) appointed by the Secretary; *(Amended L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007)*
  - (b) a public officer; and
  - (c) a person who is not a member of the disciplinary board appointed under section 11.

*(Added 36 of 1997 s. 5. Amended 16 of 2011 s. 13)*

### **12. *(Repealed 77 of 1994 s. 8)***

### **13. Disciplinary proceedings for contractors**

- (1) The Building Authority may bring to the notice of a disciplinary board appointed under section 11 the matters set out in subsection (2) in relation to a registered general building contractor, a registered specialist contractor or a registered minor works contractor if the conduct referred to the disciplinary board may— *(Amended 20 of 2008 s. 15)*
  - (a) render the contractor unfit to be on the register;

- (b) make the further inclusion of the contractor in the register prejudicial to the due administration of this Ordinance; (*Amended 20 of 2008 s. 15*)
  - (c) render the contractor deserving of suspension from the register, a fine or a reprimand; (*Amended 20 of 2008 s. 15*)
  - (d) render the contractor unfit for certifying or carrying out minor works commenced under the simplified requirements; (*Added 20 of 2008 s. 15*)
  - (e) make further certification of or carrying out minor works commenced under the simplified requirements by the contractor prejudicial to the due administration of this Ordinance; (*Added 20 of 2008 s. 15. Amended 16 of 2011 s. 14*)
  - (f) render the contractor deserving of suspension from certifying or carrying out minor works commenced under the simplified requirements; (*Added 20 of 2008 s. 15. Amended 16 of 2011 s. 14*)
  - (g) render the contractor unfit for certifying any prescribed inspection, or certifying or supervising any prescribed repair, in respect of a window in a building; (*Added 16 of 2011 s. 14*)
  - (h) make further certification of any prescribed inspection, or certification or supervision of any prescribed repair, in respect of a window in a building by that contractor prejudicial to the due administration of this Ordinance; or (*Added 16 of 2011 s. 14*)
  - (i) render the contractor deserving of suspension from certifying any prescribed inspection, or certifying or supervising any prescribed repair, in respect of a window in a building. (*Added 16 of 2011 s. 14*)
- (2) The matters referred to in subsection (1) are that the person—

- (a) has been convicted by any court of an offence relating to building works or street works;
- (b) has been negligent or has misconducted himself in building works or street works;
- (c) has deviated in a material manner from a supervision plan without reasonable cause;
- (d) has drawn up a supervision plan that does not comply with the material requirements of this Ordinance;
- (e) has repeatedly drawn up supervision plans that do not comply with the requirements of this Ordinance; *(Amended 20 of 2008 s. 15)*
- (f) has certified minor works commenced under the simplified requirements that have been carried out in contravention of this Ordinance; *(Added 20 of 2008 s. 15)*
- (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); *(Added 20 of 2008 s. 15)*
- (h) has carried out minor works commenced under the simplified requirements in such a manner that they have caused injury to a person; *(Added 20 of 2008 s. 15)*
- (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; *(Added 20 of 2008 s. 15. Amended 16 of 2011 s. 14)*
- (j) has certified building works (other than minor works) as if it were minor works commenced under the simplified requirements; or *(Added 20 of 2008 s. 15. Amended 16 of 2011 s. 14)*

- (k) has failed to discharge the duties, or abide by the requirements, imposed on a qualified person, registered general building contractor or registered minor works contractor under this Ordinance in respect of a prescribed inspection or prescribed repair. *(Added 16 of 2011 s. 14)*
- (3) The Building Authority may, in bringing to the notice of a disciplinary board a conviction, negligence or misconduct of a registered contractor that is a body corporate or is operating as a partnership, refer the names of the directors, officers, any person appointed to act for the body corporate for the purposes of this Ordinance and its partners to the disciplinary board for its consideration and action.
- (4) Where, after due inquiry, the disciplinary board is satisfied that the registered contractor or the director or officer or the person appointed by the registered contractor to act on his behalf for the purposes of this Ordinance has been convicted as described in subsection (2)(a) or done an act described in subsection (2)(b), (c), (d), (e), (f), (g), (h), (i) or (j) or failed to discharge the duties or abide by the requirements mentioned in subsection (2)(k), the disciplinary board may— *(Amended 16 of 2011 s. 14)*
  - (a) order that the name of the registered contractor or the name of the director, officer or person be removed from the relevant register, either permanently or for such period as the disciplinary board thinks fit;
  - (b) order that the registered contractor or the director, officer or person be fined—
    - (i) in the case of building works (other than minor works), a sum not exceeding \$250,000; or

- (ii) in the case of a prescribed inspection in respect of a window in a building or minor works, a sum not exceeding \$150,000; (*Amended 16 of 2011 s. 14*)
  - (c) order that the registered contractor or the director, officer or person be reprimanded; (*Amended 16 of 2011 s. 14*)
  - (d) in the case of a registered contractor who is a registered general building contractor or a registered specialist contractor, order that he be prohibited from certifying or carrying out any minor works commenced under the simplified requirements, either permanently or for such period as the disciplinary board thinks fit; or (*Replaced 20 of 2008 s. 15. Amended 16 of 2011 s. 14*)
  - (e) in the case of a registered contractor who is a registered general building contractor or registered minor works contractor, order that the contractor be prohibited from certifying any prescribed inspection, or certifying or supervising any prescribed repair, in respect of a window in a building, either permanently or for any period that the disciplinary board thinks fit. (*Added 16 of 2011 s. 14*)
- (4A) Where the disciplinary board makes an order under subsection (4), it shall order that its findings and order be published in the Gazette. (*Added 15 of 2004 s. 17*)
- (5) In making an order in respect of a director, officer or other person appointed by a registered contractor to act on its behalf for the purposes of this Ordinance, the board may remove the director, officer or other person from any other company with respect to which he is registered under this Ordinance.
- (6) A disciplinary board may make an order as it thinks fit for the payment of the costs of the inquiry or for the payment of the costs of the Building Authority or of the contractor, director, officer or other person about whom the inquiry is held.

- (6A) The amount referred to in subsection (4)(b) and any costs of inquiry ordered to be paid under subsection (6) are recoverable as a debt due to the Government. *(Added 20 of 2008 s. 15)*
- (7) A registered general building contractor, registered specialist contractor, registered minor works contractor, director, officer or other person aggrieved by an order made in respect of him under this section may appeal to a judge of the Court of First Instance. *(Amended 25 of 1998 s. 2; 16 of 2011 s. 14)*
- (8) On an appeal the judge may confirm, reverse or vary the order of the disciplinary board.
- (9) The practice for the appeal is subject to any rules of court made under the High Court Ordinance (Cap. 4). *(Amended 25 of 1998 s. 2)*
- (10) *(Repealed 16 of 2011 s. 14)*

*(Replaced 54 of 1996 s. 13)*

*(Format changes—E.R. 2 of 2012)*

### **13A. Appeal against Building Authority's decision**

- (1) An applicant for registration, renewal of registration or restoration of his name to a register who is dissatisfied with a decision of the Building Authority may appeal to a judge of the Court of First Instance.
- (2) On an appeal the judge may confirm, reverse or vary the decision of the Building Authority.
- (3) The practice for the appeal is subject to any rules of court made under the High Court Ordinance (Cap. 4).
- (4) *(Repealed 16 of 2011 s. 15)*

## Buildings Ordinance

Part 1

1-136

Section 13A

Cap. 123

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*(Added 54 of 1996 s. 14. Amended 25 of 1998 s. 2)*

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## Part 2

### Control of Building

#### 14. Approval and consent required for commencement of building works, etc.

- (1) Save as otherwise provided, no person shall commence or carry out any building works or street works without having first obtained from the Building Authority—
  - (a) his approval in writing of documents submitted to him in accordance with the regulations; and
  - (b) his consent in writing for the commencement of the building works or street works shown in the approved plan. *(Amended 68 of 1993 s. 6)*
- (2) Subject to section 28B(4), neither the approval of any plans nor the consent to the commencement of any building works or street works shall be deemed— *(Amended 41 of 1982 s. 3)*
  - (a) to confer any title to land;
  - (b) to act as a waiver of any term in any lease or licence; or
  - (c) to grant any exemption from or to permit any contravention of any of the provisions of this Ordinance or of any other enactment.

*(Replaced 44 of 1959 s. 4)*

#### 14A. Building Authority not deemed to consent if supervision plan not lodged

- (1) The Building Authority is not deemed to have consented under section 15, if the authorized person has not lodged a supervision plan for the building works or street works.

- (2) Subsection (1) does not apply where the Building Authority does not require a supervision plan.
- (3) The person preparing a supervision plan must comply with the technical memorandum current at the time of lodging the supervision plan.
- (4) The person preparing a supervision plan is responsible for the content of the supervision plan.

*(Added 54 of 1996 s. 15)*

#### **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.

*(Added 20 of 2008 s. 16)*

#### **15. Approval and consent deemed to be given unless refusal notified**

- (1) Where an application is made in the specified form for the Building Authority to approve plans or to consent to the commencement of building works or street works, he shall be deemed to have given his approval or consent, as the case may be, unless within the period prescribed by the regulations he has notified his refusal to give his approval or consent, as the case may be, in writing setting out the grounds for such refusal, and where one of such grounds is that further particulars and plans are required, he shall specify such plans and particulars. *(Amended 68 of 1993 s. 7)*
- (2) The grounds set out for any refusal to approve plans shall not be treated as being exhaustive, and no such refusal shall be construed as implying any approval of any part of such plans.

*(Added 44 of 1959 s. 4)*

#### **16. Grounds on which approval or consent may be refused**

- (1) The Building Authority may refuse to give his approval of any plans of building works where—
- (a) the plans are not such as are prescribed by regulations or are not such as he may have required under this section;
  - (b) the plans are not endorsed with or accompanied by a certificate from the Director of Fire Services certifying either—
    - (i) that, having regard to the purpose to which the building is intended to be put (which purpose shall be stated in the certificate), no fire service installation or equipment is necessary in connexion with the building that will result from the carrying out of the building works shown on the plans; or
    - (ii) that the plans have been examined and are approved by him as showing all such fire service installations and equipment as in his opinion, having regard to the purpose to which the building is intended to be put (which purpose shall be stated in the certificate), comprise the minimum fire service installations and equipment necessary for such building in accordance with a Code of Practice published from time to time by the Director of Fire Services; *(Added 3 of 1964 s. 2)*
  - (c) he has not received application for their approval in the specified form or any such application does not contain the particulars required therein; *(Amended 68 of 1993 s. 8)*
  - (d) the carrying out of the building works shown thereon would contravene the provisions of this Ordinance or of any other enactment, or would contravene any approved plan or partly approved plan under the Town Planning

Ordinance (Cap. 131) or any draft plan prepared under that Ordinance; (*Amended 25 of 2023 s. 107*)

- (da) the building works—
  - (i) are within a comprehensive development area of an approved plan or partly approved plan under the Town Planning Ordinance (Cap. 131) or a draft plan prepared under that Ordinance; and
  - (ii) contravene a master lay-out plan approved by the Town Planning Board under section 4A(2) of that Ordinance; (*Replaced 25 of 2023 s. 107*)
- (e) he has not received such other documents as are prescribed by regulations;
- (f) such fees as are prescribed by regulations have not been paid;
- (g) the carrying out of the building works shown thereon would result in a building differing in height, design, type or intended use from buildings in the immediate neighbourhood or previously existing on the same site;
- (h) the building works consist of, or any part thereof involves, the construction, formation or laying out of any means of access or other opening, not being a street or access road, to or from any street, and the place at or manner in which such means of access or other opening opens on to the street is, in his opinion, such as to be dangerous or likely to be dangerous or prejudicial to the safety or convenience of traffic using the street, or which may be expected to use the same;
- (i) in his opinion, it is necessary for him to have further particulars of such plans or of the building works shown thereon or, where all the plans prescribed by regulations have not been submitted, to have one or more of the

other plans prescribed by regulations, to enable him fully to consider such plans;

- (j) any further particulars or other plans delivered to him, upon his refusal, under paragraph (i), to give his approval to any plans, are not to his satisfaction;
- (k) such plans differ materially from those approved upon the exemption from the provisions of Part I of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) of the premises to which they relate; (*Amended 73 of 1970 s. 2; 29 of 1983 s. 47*)
- (l) it appears to him that the demolition of a building that requires to be demolished before the building works shown on such plans can be carried out—
  - (i) will cause, or will be likely to cause, a total or partial collapse of any adjoining or other building, or
  - (ii) will render, or will be likely to render, any adjoining or other building so dangerous that it will collapse, or be likely to collapse, either totally or partially,

and he is not satisfied that the collapse or the likelihood of the collapse, or such danger or the likelihood of such danger to the building, can be avoided; (*Added 27 of 1964 s. 2*)

- (m) in the case of plans showing site formation works, piling works, excavation works or foundation works, it appears to him that the carrying out of such works—
  - (i) will cause, or will be likely to cause, a total or partial collapse of any adjoining or other building, street or natural, formed or man-made land, or

(ii) will render, or will be likely to render, an adjoining or other building, street or natural, formed or man-made land so dangerous that it will collapse, or be likely to collapse, either totally or partially,

and he is not satisfied that the collapse or the likelihood of the collapse, or such danger or the likelihood of such danger to the building, street or land, can be avoided; *(Added 27 of 1964 s. 2. Amended 72 of 1980 s. 4)*

(n) it appears to him that the proposed use of the building to which the plans relate would contravene the provisions of regulation 49 of the Building (Planning) Regulations (Cap. 123 sub. leg. F); *(Added 23 of 1969 s. 3. Amended 17 of 2018 s. 51)*

(o) the plans relate to building works to be carried out upon land in respect of which a notice has been served under section 4 of the Lands Resumption Ordinance (Cap. 124) or under the proviso for resumption contained in the Government lease of the land; *(Added 73 of 1970 s. 2. Amended 29 of 1998 s. 25)*

(p) in the case of building works to be carried out on a site which in his opinion ought to be provided with streets having adequate connexion to a public street, he is not satisfied that such streets are or will be provided; *(Added 59 of 1973 s. 2. Amended L.N. 159 of 1990)*

(q) in the case of building works to be carried out in area number 1 of the scheduled areas the building is one which in his opinion must be capable of resisting landslip debris and he is not satisfied that the plans provide adequately for that capability. *(Added 41 of 1982 s. 4. Amended 52 of 1990 s. 3)*

(1A) Without prejudice to any other power of the Building Authority under this section, the Building Authority shall

refuse to give his approval to any plans of building works where the building works proposed include the construction of a hand-dug caisson unless he is satisfied that any of the following circumstances exists—

- (a) the depth of the hand-dug caisson does not exceed 3 metres and the diameter of the inscribed circle of the hand-dug caisson is not less than 1.5 metres;
- (b) for the site concerned—
  - (i) the use of a hand-dug caisson is the only practical construction method; or
  - (ii) there is no other safe engineering alternative.  
*(Added 6 of 1995 s. 3)*
- (2) The Building Authority may refuse to give his approval of any plans of street works where—
  - (a) the plans are not such as are prescribed by regulations;
  - (b) he has not received application for their approval in the specified form or any such application does not contain the particulars required therein; *(Amended 68 of 1993 s. 8)*
  - (c) the carrying out of the street works shown thereon would contravene the provisions of this Ordinance or of any other enactment;
  - (d) in the case of an access road, the place at or manner in which the access road opens on to a street is, in his opinion, such as to be dangerous or likely to be dangerous or prejudicial to the safety or convenience of traffic using the street or access road, or which may be expected to use the same;
  - (e) such fees as are prescribed by regulations have not been paid;

- (f) in the opinion of the Building Authority, it is necessary for him to have further particulars of such plans to enable him fully to consider such plans;
  - (g) any further particulars delivered to him, upon his refusal under paragraph (f) to give his approval to any plans, are not to his satisfaction.
- (3) The Building Authority may refuse to give his consent to the commencement of any building works or street works where—
- (a) he has not received and given his approval to all the plans thereof prescribed by regulations;
  - (b) he has not received such other documents as may be prescribed by regulations;
  - (ba) any condition or requirement imposed by him under section 17(1) in respect of the building works or street works has not been complied with to his satisfaction; *(Added 52 of 1990 s. 3)*
  - (bb) he is not satisfied that the authorized person, registered structural engineer, registered geotechnical engineer, registered general building contractor or registered specialist contractor has adequately provided precautionary and other protective measures for demolition works; *(Added 54 of 1996 s. 16. Amended 15 of 2004 s. 18)*
  - (bc) the authorized person has not lodged a supervision plan for the works; *(Added 54 of 1996 s. 16)*
  - (c) such fees as are prescribed by regulations have not been paid; or
  - (d) a period exceeding 2 years has elapsed since the approval of any of the prescribed plans in respect of the

building works or street works. (*Amended 23 of 1969 s. 3*)

- (3A) In subsection (3)(d), the reference to plans does not include such plans as are for the time being approved in connexion with an order under Part I of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) excluding the premises from the further application of that Part. (*Replaced 73 of 1970 s. 2. Amended 29 of 1983 s. 47*)
- (4) The Building Authority may refuse to give his consent to the commencement of any building works where it appears to him that the carrying out of the building works—
- (a) will cause, or will be likely to cause, a total or partial collapse of any adjoining or other building, street or natural, formed or man-made land, or
  - (b) will render, or will be likely to render, any adjoining or other building, street or natural, formed or man-made land so dangerous that it will collapse, or be likely to collapse, either totally or partially,
- and he is not satisfied that the collapse or the likelihood of the collapse, or such danger or the likelihood of such danger to the building, street or land, can be avoided. (*Added 27 of 1964 s. 2. Amended 31 of 1964 s. 2; 72 of 1980 s. 4*)
- (5) Without prejudice to subsection (4), the Building Authority may refuse to give his consent to the commencement of demolition works until he is satisfied that adequate precautions have been taken—
- (a) to prevent a collapse, whether total or partial, or the likelihood of such a collapse, of any adjoining or other building, street or natural, formed or man-made land; or
  - (b) to prevent any adjoining or other building, street or natural, formed or man-made land becoming so dangerous, or the likelihood of any such building, street

or land becoming so dangerous, that it will collapse or be likely to collapse, either totally or partially. (*Added 27 of 1964 s. 2. Amended 72 of 1980 s. 4*)

(*Added 44 of 1959 s. 4*)

## 17. Conditions may be imposed in certain cases

- (1) Where an application is made to the Building Authority in respect of any of the building works or street works set out in Column A, he may take such action by way of imposing conditions and requirements by orders in writing, and refusing his approval of plans or his consent to commence the building works or street works as is set out in Column B opposite the particular item in Column A.

A	B
<p>1. Approval of plans of building works in connexion with an existing building which would result in a new building.</p>	<p>1. For the purpose of making such new building comply with the standard of structural stability and public health established from time to time by regulations—</p> <p>(a) require plans to be submitted showing additional building works, and refuse approval of the plans already submitted pending his approval of such plans together with the plans required to be submitted under this section; and</p>

## Buildings Ordinance

Part 2

2-22

Section 17

Cap. 123

A	B
2. Approval of plans of building works for the erection of a new building to which access is to be obtained by means of an existing access road which does not comply with the regulations.	(b) require to be carried out the building works shown on such approved additional plans or such other building works as he may consider necessary.  2. For the purpose of making such access road comply with the regulations— (a) require plans to be submitted showing the necessary street works; and (b) require street works to be carried out in accordance with an approved plan.

## Buildings Ordinance

Part 2

2-24

Section 17

Cap. 123

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A	B
<p>3. Approval of plans of street works where in the opinion of the Building Authority—</p> <p>(a) the bearing capacity of the ground forming the foundation of the carriage-way is such that the thicknesses of materials to be used in the surfacing thereof, as prescribed by regulations, are inadequate; or</p> <p>(b) that the volume of traffic which may be expected to use such street is such that a carriage-way constructed in accordance with the regulations will be inadequate.</p>	<p>3. Require such carriage-way to be constructed in such manner as he may prescribe.</p>

A	B
4. Approval of plans of building works or street works involving the construction, formation, laying out or any alteration of any access to or opening to or from any street.	4. Require such access or opening to be constructed and sited in such manner as in his opinion will ensure the safety and convenience of traffic and pedestrians using or expected to use such street.
5. Consent to commence building works to be carried out on land— (a) abutting or fronting on a new private street; or (b) to which access is to be obtained by means of a new access road or an access road to which alterations are to be made.	5. For the purpose of making such private streets or access roads comply with the regulations— (a) require plans of street works to be submitted and may refuse his consent to the commencement of the building works until he has approved such plans; and (b) require street works to be carried out in accordance with an approved plan.

A	B
<p>6. Approval of plans showing, or consent to commence, building works involving—</p> <p>(a) the structural use of materials; <i>(Replaced 57 of 1987 s. 4)</i></p> <p>(b) site formation works, excavation works, piling works, foundation works or any other structural works; or <i>(Replaced 57 of 1987 s. 4. Amended 39 of 2000 s. 3)</i></p> <p>(c) ground investigation in the scheduled areas. <i>(Replaced 41 of 1982 s. 5. Amended 52 of 1990 s. 4)</i></p>	<p>6. Require and prescribe conditions for—</p> <p>(a) maximum loads and stresses;</p> <p>(b) tests of materials;</p> <p>(c) the use of materials;</p> <p>(ca) instrumentation for checking design assumptions and monitoring the effect of the works;</p> <p>(d) standards of workmanship;</p> <p>(e) qualified supervision;</p> <p>(f) the sequence of works in respect of works in area number 1 of the scheduled areas; and <i>(Amended 52 of 1990 s. 4)</i></p> <p>(g) a performance review in respect of—</p> <p>(i) works in the scheduled areas; or</p> <p>(ii) works in sites outside the scheduled areas where—</p>

## Buildings Ordinance

Part 2

2-30

Section 17

Cap. 123

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A

B

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- (A) the Building Authority considers that the geological conditions need to be verified during construction and before an application for occupation permit is made under section 21;
  - (B) the groundwater regime will be adversely affected by the works; or
  - (C) the Building Authority is of the opinion that the works incorporate unconventional designs, the performance of which has not been fully demonstrated by local case histories, tests and investigations.  
*(Replaced 39 of 2000 s. 3)*

A	B
7. Approval of plans showing, or consent to commence, site formation works, piling works, excavation works or foundation works.	7. Prescribe conditions subject to which the works may be carried out, being conditions that the Building Authority considers necessary to prevent a collapse, whether total or partial, or the likelihood of such a collapse, of any adjoining or other building, street or land or to prevent any adjoining or other building, street or land becoming so dangerous, or the likelihood of any such building, street or land becoming so dangerous, that it will collapse or be likely to collapse, either totally or partially. ( <i>Added 27 of 1964 s. 3. Amended 40 of 1965 s. 2; 23 of 1969 s. 4; 72 of 1980 s. 5</i> )

*(Added 44 of 1959 s. 4)*

(2) *(Repealed 15 of 2004 s. 19)*

## 17A. Incompatibility with sewage tunnel works

- (1) Notwithstanding anything in this Ordinance, where the Building Authority is of the opinion that any building works or the commencement of any building works would be incompatible with any sewage tunnel works or proposed sewage tunnel works, he may to such extent as is necessary to avoid such incompatibility—
  - (a) refuse to give his approval to any plan or to consent to the commencement of the building works;

- 
- (b) withdraw any approval which he has or is deemed to have given to any plan or any consent to the commencement of the building works;
  - (c) impose conditions on the giving of approval of plans showing piling works, excavation works or foundation works or consent to commence such works.
- (2) In this section—
- proposed sewage tunnel works* (擬建污水隧道工程) means sewage tunnel works likely to be undertaken in connection with a proposed sewage tunnel referred to in a notice published in the Gazette pursuant to section 4 of the Sewage Tunnels (Statutory Easements) Ordinance (Cap. 438);
- sewage tunnel works* (污水隧道工程) has the same meaning as *tunnel works* in the Sewage Tunnels (Statutory Easements) Ordinance (Cap. 438).

*(Added 74 of 1993 s. 16)*

## 18. Authority to erect shoring in certain cases

- (1) Without prejudice to any other provision of this Ordinance and subject to subsection (2), where—
    - (a) for the purpose of satisfying the Building Authority that such precautions as are referred to in section 16(5) have been taken; or
    - (b) for the purpose of complying with a condition prescribed by the Building Authority under section 17,
- the erection of shoring for any building is necessary, the person whose building works or proposed building works necessitate the erection of the shoring is hereby authorized to erect, or cause to be erected, such shoring as may be necessary, and the same may be affixed—

- (i) in or to or around the building for which it is erected, or otherwise in relation to that building as the circumstances require; or
  - (ii) with the permission of the Director of Buildings, or an officer of the Buildings Department authorized in that behalf by the Director of Buildings either by name or by reference to an office, granted under subsection (3) and in accordance with such permission, in or over or upon any street, whether or not the street is on land held under lease from the Government, (*Amended L.N. 94 of 1986; L.N. 291 of 1993; 29 of 1998 s. 105*)  
and maintained for such time as may be necessary and thereafter removed. (*Amended 46 of 1968 s. 2; L.N. 76 of 1982*)
- (2) Nothing in subsection (1) authorizes—
- (a) the affixing of shoring in or over or upon any land, not being a street, unless the land is owned by either the owner of the building for which the shoring is erected or the person whose building works or proposed building works necessitate the erection of the shoring; or
  - (b) the affixing of shoring in or to or around, or otherwise in relation to, any building other than the building for which the shoring is erected.
- (3) Whenever it is necessary, for either of the purposes specified in subsection (1), to erect shoring in or over or upon a street, whether or not the street is on land held under lease from the Government, the Director of Buildings or an officer of the Buildings Department authorized in that behalf by the Director of Buildings, either by name or by reference to an office, may, if he thinks fit, permit the erection of such shoring, subject to such conditions as he considers necessary.

*(Amended L.N. 76 of 1982; L.N. 94 of 1986; L.N. 291 of 1993; 29 of 1998 s. 105)*

- (4) Any damage to a building for which shoring is erected pursuant to subsection (1) caused by or resulting from the erection, maintenance or dismantling of the shoring shall be made good as soon as practicable by the person whose building works or proposed building works necessitated the erection, maintenance or dismantling of the shoring. *(Amended 46 of 1968 s. 2)*
- (5) (a) Any occupier of a building for which shoring is erected pursuant to subsection (1), and any other person whatsoever, who suffers any loss or damage by reason of the erection, maintenance or dismantling of the shoring shall be entitled to recover compensation from the person whose building works or proposed building works necessitated the erection, maintenance or dismantling of the shoring. *(Amended 46 of 1968 s. 2)*
  - (b) Where any dispute arises as to—
    - (i) whether compensation is payable under this subsection,
    - (ii) the amount of any such compensation, or
    - (iii) the person to whom it is payable,the same shall be determined in accordance with the provisions of section 18A. *(Amended 46 of 1968 s. 2)*
- (6) (a) Any person authorized by the Building Authority in writing may enter any building specified in such authorization for the purpose of ascertaining what shoring may be required for the building for either of the purposes specified in subsection (1) or of ascertaining the manner in which shoring for the building may be affixed or for the purpose of erecting shoring for the building pursuant to subsection (1) or of maintaining

such shoring in good order or of inspecting the same.  
*(Amended 68 of 1993 s. 9)*

- (b) An authorization granted to any person under paragraph (a) shall be deemed also to authorize any servant or agent of that person, and such an agent's servants, to enter the building for the like purpose.
- (c) If a magistrate is satisfied by evidence on oath that the entry to a building of any person authorized to enter the same by or under paragraph (a) or (b) has been obstructed, he may upon application by or on behalf of the person authorized to enter such building under paragraph (a) issue a warrant in the form in Schedule 3 authorizing—  
*(Amended 16 of 2011 s. 17)*
  - (i) each and every person authorized prior to the issue of the warrant to enter such building by or under paragraph (a) or (b); and
  - (ii) any police officer of or above the rank of inspector and any other police officer acting under his direction,to enter such building on such occasion or occasions, and at such time or times, as may be necessary for the purpose for which the authorization under paragraph (a) was granted, and in the execution of such warrant any such police officer may use such force as may be necessary.  
*(Added 40 of 1965 s. 3)*
- (d) A copy, in the English language and in the Chinese language, of any warrant issued under paragraph (c) shall be posted in a conspicuous position on the building to which it relates.  
*(Added 40 of 1965 s. 3)*  
*(Added 27 of 1964 s. 4)*

## 18A. Claims for compensation

- (1) Any occupier of a building for which shoring is erected pursuant to section 18(1), and any other person whatsoever, who has suffered loss or damage by reason of the erection, maintenance or dismantling of the shoring may, save where he and the person whose building works or proposed building works necessitated the erection, maintenance or dismantling of the shoring have entered into an agreement in writing for the payment of compensation, apply to the Lands Tribunal to hear and determine a dispute as to the matters referred to in section 18(5)(b). *(Amended 76 of 1981 s. 60)*
- (2) Any application under subsection (1) shall, subject to subsection (3), be made within 3 years of the date on which the loss or damage was suffered. *(Amended 77 of 1994 s. 9)*
- (3) The Lands Tribunal may, on application made for the purpose, extend the period specified in subsection (2) for making an application. *(Added 77 of 1994 s. 9)*
- (4)-(9) *(Repealed 76 of 1981 s. 60)*

*(Added 46 of 1968 s. 3)*

## 19. Provision for urgent work

- (1) Where—
  - (a) any accident or emergency renders it necessary to shore up, underpin, demolish or otherwise make safe any existing building, or any natural, formed or man-made land, or to carry out any street works immediately; and
  - (b) notice in the specified form of such work and of the accident or emergency which necessitated the same is given to the Building Authority by the building owner, or the owner of the land or other person who under the terms of a Government lease is under an obligation to maintain the land, or by the person for whom the street works are being, or are to be, carried out either before

such work is authorized by him or within 48 hours after it has been commenced whichever is the earlier, (*Amended 68 of 1993 s. 10; 29 of 1998 s. 105*)

such work may be commenced without obtaining the Building Authority's consent.

- (2) If the Building Authority considers that the emergency no longer exists he may by order in writing served on the building owner, or the owner of the land or other person referred to in subsection (1), or person for whom the street works are being carried out require that building works cease until consent is obtained.
- (3) Any person may deviate from a supervision plan if urgent works are required to ensure safety of building works or street works to which the supervision plan relates. (*Added 54 of 1996 s. 17*)
- (4) The authorized person is required to give to the Building Authority as soon as practicable after the urgent work arises notice of—
  - (a) any material deviation from the supervision plan;
  - (b) the urgent work;
  - (c) a revised supervision plan prepared by the registered general building contractor, the registered specialist contractor, the registered minor works contractor, the registered structural engineer, the registered geotechnical engineer or the authorized person, as the case may require, detailing the procedures adopted to meet the urgent work; and (*Amended 15 of 2004 s. 20; 20 of 2008 s. 17*)
  - (d) any further amendments to any supervision plan arising out of the urgent work. (*Added 54 of 1996 s. 17*)

*(Amended 44 of 1959 s. 5; 72 of 1980 s. 6)*

**20. Resumption of work suspended**

- (1) Where any building works or street works for the commencement and carrying out of which the consent of the Building Authority has been obtained are not commenced within 3 months thereof, or if commenced are suspended for such period, such consent shall be deemed to be revoked.
- (2) The Building Authority may, upon application being made in the specified form, renew such consent and by order in writing impose such conditions as in his opinion are made necessary by such delay in commencement or by such suspension. *(Amended 68 of 1993 s. 11)*

*(Replaced 44 of 1959 s. 6)*

**21. Occupation of new building**

- (1) No new building shall be occupied in any way except by not more than 2 caretakers unless—
  - (a) in respect of such building the Building Authority has issued an occupation permit; or
  - (b) in respect of the whole or any part of the building which is being occupied there is a temporary occupation permit, issued by the Building Authority, which temporary occupation permit has not expired and has not been revoked by the Building Authority. *(Amended 23 of 1969 s. 5; 68 of 1993 s. 12)*
- (2) On receiving an application in the appropriate specified form, the Building Authority may issue— *(Amended 68 of 1993 s. 12)*
  - (a) an occupation permit in respect of the new building which is the subject of such application; or

- (b) a temporary occupation permit in respect of the whole or any part of a new building which is completed and which is the subject of the application. *(Amended 23 of 1969 s. 5)*
- (3) On the issue of a temporary occupation permit, the Building Authority may impose such conditions as he may consider necessary including a condition limiting the duration of the temporary occupation permit to such period as he may consider necessary and may revoke a temporary occupation permit for breach of any such condition by the service on the building owner of notice of revocation in writing. *(Amended 68 of 1993 s. 12)*
- (4) If an occupation permit is issued in respect of a building, every temporary occupation permit issued in respect of the whole or any part of the building shall thereupon be deemed to have been revoked. *(Amended 23 of 1969 s. 5)*
- (5) If a temporary occupation permit in respect of the whole or a part of a building has been revoked or has expired and an occupation permit has not been issued in respect of the building, the provisions of subsection (1) shall apply to the building or to such part of the building, as the case may be, on the expiration of 7 days from the expiry or revocation of the temporary occupation permit. *(Amended 23 of 1969 s. 5)*
- (6) The Building Authority may refuse to issue a temporary occupation permit or an occupation permit under this section where—
  - (a) any part of the building works has been carried out in contravention of any of the provisions of this Ordinance;
  - (b) any street works required under the provisions of this Ordinance in connexion with any new private street or any access road, on to which the building abuts or fronts or by which access is obtained, remain to be completed;

- (c) in the case of a building in which a liftway is provided, a lift has not yet been installed therein, unless the liftway has been protected to the satisfaction of the Building Authority in such manner as to avoid any danger to persons using the building;
  - (d) in the case of a building the plans whereof were certified by the Director of Fire Services in the terms indicated in section 16(1)(b)(ii), the applicant for the permit fails to produce to the Building Authority a certificate from the Director of Fire Services in such form as may be prescribed certifying that he is satisfied that the fire service installations and equipment shown on the plans aforesaid have been provided and are in efficient working order and satisfactory condition; *(Added 3 of 1964 s. 3)*
  - (e) in the case of a building to which by regulations a supply of water is required to be connected for any purpose, the Building Authority is not satisfied that connexion of a supply of water for every such purpose, which complies in every respect with all the requirements of the regulations, has been made to the building; or *(Added 16 of 1966 s. 6)*
  - (f) any performance review as required under item 6(g) in Column B of section 17(1) in the opinion of the Building Authority fails to state or justify that the building works have been adequately inspected and monitored in the course of construction or that the geotechnical design assumptions upon which the building works have been based are valid. *(Added 41 of 1982 s. 6. Amended 52 of 1990 s. 5; 39 of 2000 s. 4)*
- (7) Upon the expiration of 14 days from the date of receipt by the Building Authority of an application in the appropriate specified form, for a temporary occupation permit or for an

occupation permit, such permit shall be deemed to have been granted unless the Building Authority has by notice in writing served on the building owner refused to issue such permit, specifying the ground for such refusal. (*Amended 68 of 1993 s. 12*)

- (8) Where, in respect of a new building, an application under this section for a temporary occupation permit or for an occupation permit is submitted within 60 days of receipt by the Building Authority of a performance review required under section 17 in respect of building works for that building, the application shall, for the purpose of subsection (7), be deemed to have been received 60 days after receipt of the performance review. (*Added 41 of 1982 s. 6*)

(*Replaced 37 of 1961 s. 2*)

## **22. Powers of Building Authority**

- (1) Subject to subsection (1A), the Building Authority or an authorized officer may at any time enter and where necessary, in the presence of a police officer, break into any premises or enter upon any land— (*Amended 24 of 2012 s. 4*)
- (a) to ascertain whether any building, structure, street or natural, formed or man-made land is dangerous or liable to become dangerous; (*Amended 72 of 1980 s. 7*)
  - (b) to inspect or test any groundwater drainage works, drainage works, drainage system, sewerage works or sewerage system; (*Amended 44 of 1959 s. 8; 41 of 1982 s. 7; 24 of 2012 s. 4*)
  - (c) to ascertain whether the provisions of this Ordinance or of any notice order or regulation hereunder are being complied with;

- (d) to carry out or cause to be carried out any work which he is authorized to carry out under this Ordinance. *(Amended 44 of 1959 s. 8)*
- (1A) Except in case of emergency, neither the Building Authority nor an authorized officer may enter or break into the premises, or enter upon the land under subsection (1) unless—
  - (a) the entry is permitted by the owner, occupier, or person who appears to have control or management of the premises or land; or
  - (b) a warrant is obtained under subsection (1B). *(Added 24 of 2012 s. 4)*
- (1B) A magistrate may issue a warrant authorizing the Building Authority or an authorized officer to enter and, if necessary, break into any premises or enter upon any land for any of the purposes mentioned in subsection (1) if the magistrate is satisfied by information on oath that—
  - (a) there are reasonable grounds for suspecting—
    - (i) with respect to building works that have been or are being carried out to the premises or land—
      - (A) that there is a material divergence or deviation from any plan approved by the Building Authority under this Ordinance or required to be submitted to the Building Authority under the simplified requirements; or
      - (B) that they are not in compliance with the standard of structural stability, public health or fire safety established by regulations;
    - (ii) that the use of the premises has been changed in contravention of section 25(1) or (2);

- (iii) that the premises have been, or the land has been, rendered dangerous, or the premises are, or the land is, liable to become dangerous;
  - (iv) that the drains or sewers of the premises or land are in a defective or insanitary condition; or
  - (v) that a notice or order served under this Ordinance has not been complied with;
- (b) the entry into the premises or upon the land by the Building Authority or an authorized officer—
- (i) was refused; or
  - (ii) could not be gained despite a visit made to the premises or land on at least 2 different days; and
- (c) notice of the intention to apply for a warrant has been served on the owner or occupier of the premises or land.
- (Added 24 of 2012 s. 4)*
- (1C) A warrant issued under subsection (1B) must specify—
- (a) the premises or land to be entered;
  - (b) the purpose of the entry;
  - (c) the name and capacity of the person authorized to enter the premises or land; and
  - (d) the date of the issue of the warrant. *(Added 24 of 2012 s. 4)*
- (1D) If the Building Authority or an authorized officer enters or breaks into any premises, or enters upon any land, under a warrant issued under subsection (1B), the Building Authority or authorized officer must produce to the owner, occupier, or person who appears to have control or management of the premises or land the warrant for inspection. *(Added 24 of 2012 s. 4)*

- (1E) When entering any premises or land under this section, the Building Authority or an authorized officer may be accompanied by any person that the Building Authority or authorized officer considers necessary for the purpose of the entry. *(Added 24 of 2012 s. 4)*
- (1F) On leaving any unoccupied premises or land entered under this section, the Building Authority or an authorized officer must leave the premises or land as effectually secured against trespassers as the premises or land was found at the time of entry. *(Added 24 of 2012 s. 4)*
- (1G) A warrant issued under subsection (1B) continues in force until the purpose for which entry is necessary has been fulfilled. *(Added 24 of 2012 s. 4)*
- (2) For the purposes of subsection (1)—
  - (a) access to every part of any building works or street works shall be provided by the registered general building contractor, registered specialist contractor or registered minor works contractor; and *(Replaced 20 of 2008 s. 18)*
  - (b) the Building Authority or an authorized officer may take any steps that he or she considers necessary, including the making of openings and the taking of reasonable samples. *(Amended 44 of 1959 s. 8; 24 of 2012 s. 4)*
- (3) The Building Authority may by order in writing require an authorized person to carry out such tests as may be specified in the order. *(Amended 52 of 1974 s. 9)*
- (4) The Building Authority may specify any form for the purposes of this Ordinance. *(Added 68 of 1993 s. 13)*
- (5) In this section—

**authorized officer** (獲授權人員) means a public officer authorized in writing by the Building Authority for any of the purposes mentioned in subsection (1). (*Added 24 of 2012 s. 4*)

### 23. Building works, etc. to cease on order of Building Authority

- (1) Where in the opinion of the Building Authority— (*Amended 54 of 1996 s. 19*)
  - (a) any building works or street works are being carried out in contravention of any of the provisions of this Ordinance or are connected with any building works that have been so carried out; or
  - (b) any building works that are being carried out—
    - (i) will cause, or will be likely to cause, a total or partial collapse of any adjoining or other building, street or natural, formed or man-made land;
    - (ii) will render, or will be likely to render, any adjoining or other building, street or natural, formed or man-made land so dangerous that it will collapse, or be likely to collapse, either totally or partially; or (*Amended 72 of 1980 s. 8; 54 of 1996 s. 19*)
    - (iii) are in dangerous conditions within the site of the building works, (*Added 54 of 1996 s. 19. Amended 16 of 2011 s. 18*)

he may by order in writing served on the registered general building contractor, registered specialist contractor, registered minor works contractor or other person carrying out such works, as the case may be, require that such works cease until the order is withdrawn. (*Amended 20 of 2008 s. 19*)

- (2) The Building Authority may by order in writing served on the registered general building contractor, registered specialist contractor, registered minor works contractor or

other person carrying out building works or street works require that the works cease if there has been a material deviation— *(Amended 20 of 2008 s. 19)*

- (a) from the technical memorandum for the preparation of a supervision plan for the building works or street works; or
  - (b) from the supervision plan for the works, which in the opinion of the Building Authority may lead to a dangerous or potentially dangerous situation. *(Added 54 of 1996 s. 19)*
- (3) The Building Authority may by order in writing served on the registered general building contractor, registered specialist contractor, registered minor works contractor or other person carrying out building works or street works require that the works cease if he is satisfied that a condition imposed on the giving of his approval or consent has not been, or is not able to be, complied with. *(Added 54 of 1996 s. 19. Amended 20 of 2008 s. 19)*
- (4) If the Building Authority orders that the works cease, the person carrying out the building works or street works shall cease to continue the works as quickly and as safely as possible. *(Added 54 of 1996 s. 19)*
- (5) The Building Authority may in withdrawing an order that works cease make the withdrawal subject to reasonable conditions. *(Added 54 of 1996 s. 19)*

*(Replaced 40 of 1965 s. 4. Amended 43 of 1993 s. 5)*

**24. Order for demolition, removal, or alteration of building, building works (other than minor works commenced under simplified requirements) or street works**

*(Amended 20 of 2008 s. 20)*

- (1) Where any building has been erected, or where any building works or street works have been or are being carried out in contravention of any of the provisions of this Ordinance the Building Authority may by order in writing require—
- (a) the demolition of the building, building works, or street works; or
  - (b) (*Repealed 43 of 1993 s. 6*)
  - (c) such alteration of the building, building works or street works as may be necessary to cause the same to comply with the provisions of this Ordinance, or otherwise to put an end to the contraventions thereof,
- and in every case specify the time within which the demolition, alteration or work required by such order shall be commenced and the time within which the same shall be completed. (*Amended 16 of 1966 s. 7; 43 of 1993 s. 6*)
- (1A) Subsection (1) does not apply in respect of minor works commenced under the simplified requirements. (*Added 20 of 2008 s. 20*)
- (2) An order made under subsection (1) shall be served on—
- (a) in the case of a building or building works but subject to subsection (2A), the owner of the land or premises on which the building has been erected or on which the building works have been or are being carried out;
  - (b) in the case of street works, the frontagers; and
  - (c) in the case of building works the subject matter of which is a signboard—
    - (i) the person for whom the signboard has been erected or is being erected; or
    - (ii) if that person cannot be found, the person who would receive any rent or other money consideration if the signboard were hired out or

the person who is receiving such rent or money consideration; or

(iii) if the persons referred to in subparagraphs (i) and (ii) cannot be found, the owner of the land or premises on which the signboard has been erected or is being erected. (*Replaced 15 of 2004 s. 21*)

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

(a) connected to land or premises (in this section referred to as *other land or premises*) other than the land or premises on which the building has been erected or on which the building works have been or are being carried out; and

(b) occupied or used by the owner or occupier of that other land or premises,

subsection (2)(a) shall not apply and in such a case, an order made under subsection (1) in respect of the building or building works shall be served on the owner of that other land or premises. (*Added 15 of 2004 s. 21*)

(2B) References in subsections (2)(a) and (2A) to building works do not include references to building works the subject matter of which is a signboard. (*Added 15 of 2004 s. 21*)

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

(a) if the order has been served on the owner of any land or premises in accordance with subsection (2)(a) or (c)(iii), the land or premises;

(b) if the order has been served on the frontagers in accordance with subsection (2)(b), the premises of the frontagers to which the street works relate; or

- (c) if the order has been served on the owner of other land or premises in accordance with subsection (2A), that other land or premises. *(Added 15 of 2004 s. 21)*
- (3) If an order made under subsection (1) is not complied with, the Building Authority may demolish or alter or cause to be demolished or altered such building, building works or street works. *(Amended L.N. 283 of 1986; 43 of 1993 s. 6)*
- (4) Subject to subsection (4A), the cost of any demolition or alteration under subsection (3) in relation to the building, building works or street works to which the order relates shall be recoverable from—
  - (a) if the order had been served on the owner of any land or premises in accordance with subsection (2)(a) or (c)(iii), that owner;
  - (b) if the order had been served on the frontagers in accordance with subsection (2)(b), those frontagers;
  - (c) if the order had been served on a person in accordance with subsection (2)(c)(i) or (ii), that person; or
  - (d) if the order had been served on the owner of other land or premises in accordance with subsection (2A), that owner. *(Replaced 15 of 2004 s. 21)*
- (4A) Where the order has been registered with the Land Registry in accordance with subsection (2C), the cost of any demolition or alteration under subsection (3) in relation to the building, building works or street works to which the order relates shall be recoverable from—
  - (a) if the order had been served on the owner of any land or premises in accordance with subsection (2)(a) or (c)(iii), the person who, as at the date of completion of the demolition or alteration, is the owner of that land or premises;

- (b) if the order had been served on the frontagers in accordance with subsection (2)(b), the persons who, as at the date of completion of the demolition or alteration, are the frontagers to which the street works relate; or
  - (c) if the order had been served on the owner of other land or premises in accordance with subsection (2A), the person who, as at the date of completion of the demolition or alteration, is the owner of that other land or premises. *(Added 15 of 2004 s. 21)*
- (4B) Where the cost of any demolition or alteration is recovered from frontagers under subsection (4) or (4A), the Building Authority shall apportion the cost—
- (a) in the case of private streets, according to the frontages of the premises owned by such frontagers; or
  - (b) in the case of access roads, equally. *(Added 15 of 2004 s. 21)*
- (4C) A certificate purporting to be under the hand of the Building Authority and stating the date of completion of the demolition or alteration under subsection (3) shall be *prima facie* evidence of that fact. *(Added 15 of 2004 s. 21)*
- (5) *(Repealed 43 of 1993 s. 6)*
- (6) Subsection (1) has effect subject to section 112 of the Private Columbaria Ordinance (Cap. 630). *(Added 8 of 2017 s. 117 and E.R. 4 of 2017)*

*(Replaced 44 of 1959 s. 10)*

#### **24A. Order to cease or remedy dangerous works**

- (1) Where any building works or street works have been or are being, carried out in such a manner as, in the opinion of the Building Authority, will cause, or will be likely to cause, a risk of injury to any person or damage to any property, the

Building Authority may, by order in writing, require that such work as he may specify therein be carried out, to ensure that the works will cease to constitute such a risk. (*Amended 43 of 1993 s. 7*)

- (2) An order made under subsection (1)—
  - (a) may specify—
    - (i) the manner in which the work specified in the order shall be carried out;
    - (ii) the time before which the work shall be commenced and the time by which it shall be completed;
    - (iii) that the work shall be carried out with due diligence to the satisfaction of the Building Authority; and
  - (b) shall be addressed to and served on—
    - (i) in the case of completed works, the owner thereof; and
    - (ii) in any other case, the person for whom the works are being carried out or his agent.
- (3) If a person fails to comply with an order served on him under subsection (1), the Building Authority may, without any further notice, carry out, or cause to be carried out, such work as may be necessary to ensure that the order will be complied with.
- (4) The cost of any work carried out, or caused to be carried out, by the Building Authority under subsection (3) may be recovered by the Building Authority from the person upon whom the order was served under subsection (2).

*(Added 71 of 1972 s. 3)*

#### **24AA. Order for demolition, removal, or alteration of minor works**

### **commenced under simplified requirements**

- (1) The Building Authority may, by order in writing served according to subsection (4), require a person to take the action described in subsection (2) in respect of any minor works commenced under the simplified requirements, if the minor works have been or are being carried out in contravention of—
  - (a) any provisions of this Ordinance;
  - (b) an approved plan or partly approved plan under the Town Planning Ordinance (Cap. 131) or a draft plan prepared under that Ordinance; or (*Replaced 25 of 2023 s. 108*)
  - (c) any relevant master lay-out plan approved by the Town Planning Board under section 4A(2) of the Town Planning Ordinance (Cap. 131).
- (2) The action that the Building Authority may require a person to take under subsection (1) is—
  - (a) the demolition of the minor works; or
  - (b) such alteration of the minor works as may be necessary to cause the same to comply with the provisions of this Ordinance, the approved plan, partly approved plan or draft plan or the master lay-out plan (as the case may be), or otherwise to put an end to the contravention referred to in subsection (1)(a), (b) or (c). (*Amended 25 of 2023 s. 108*)
- (3) The Building Authority shall specify in the order the time within which the action required by the order must be commenced and completed.
- (4) An order made under subsection (1) shall be served on—
  - (a) where the subject matter of the minor works is not a signboard—

- (i) the person for whom the minor works have been or are being carried out; or
  - (ii) if that person is not the owner of the land or premises on which the minor works have been or are being carried out and cannot be found, subject to subsection (5), the owner of such land or premises; or
- (b) where the subject matter of the minor works is a signboard—
- (i) the person for whom the signboard has been or is being erected;
  - (ii) if that person cannot be found, the person who would receive any rent or other money consideration if the signboard were hired out or the person who is receiving such rent or money consideration; or
  - (iii) if the persons referred to in subparagraphs (i) and (ii) are not the owner of the land or premises on which the signboard has been or is being erected and cannot be found, the owner of such land or premises.
- (5) Where the place on which the minor works referred to in subsection (4)(a)(ii) are carried out is—
- (a) connected to land or premises (in this section referred to as *other land or premises*) other than the land or premises on which the minor works have been or are being carried out; and
  - (b) occupied or used by the owner or occupier of that other land or premises,

subsection (4)(a)(ii) does not apply, and in such a case, the Building Authority shall serve the order made under subsection (1) on the owner of that other land or premises.

- (6) The Building Authority may cause an order served under subsection (4)(a)(ii) or (b)(iii) or (5) to be registered in the Land Registry against—
  - (a) if the order has been served on the owner of any land or premises in accordance with subsection (4)(a) or (b), the land or premises; or
  - (b) if the order has been served on the owner of other land or premises in accordance with subsection (5), that other land or premises.
- (7) If an order made under subsection (1) is not complied with, the Building Authority may demolish or alter or cause to be demolished or altered the minor works.
- (8) Subject to subsection (9), the cost of any demolition or alteration under subsection (7) in relation to the minor works to which the order relates shall be recoverable as a debt due to the government from—
  - (a) if the order had been served on a person in accordance with subsection (4)(a)(i) or (b)(i) or (ii), that person;
  - (b) if the order had been served on the owner of any land or premises in accordance with subsection (4)(a) or (b), that owner; or
  - (c) if the order had been served on the owner of other land or premises in accordance with subsection (5), that owner.
- (9) Where the order has been registered with the Land Registry in accordance with subsection (6), the cost of any demolition or alteration under subsection (7) in relation to the minor works to which the order relates is recoverable from—

- (a) if the order had been served on the owner of any land or premises in accordance with subsection (4)(a) or (b), the person who, as at the date of completion of the demolition or alteration, is the owner of that land or premises;
  - (b) if the order had been served on the owner of other land or premises in accordance with subsection (5), the person who, as at the date of completion of the demolition or alteration, is the owner of that other land or premises.
- (10) A certificate purporting to be under the hand of the Building Authority and stating the date of completion of the demolition or alteration under subsection (7) is *prima facie* evidence of that fact.

*(Added 20 of 2008 s. 21)*

## **24B. Priority demolition**

- (1) Where any building has been erected or any building works have been or are being carried out in contravention of any of the provisions of this Ordinance, and it appears to the Building Authority that—
  - (a) the building or building works constitute an imminent danger to life or property;
  - (b) the building has been erected or the building works have been or are being carried out with a view to sale, letting or other disposal;
  - (c) the building is situated or the building works have been or are being carried out in a common part of any building or land in multiple ownership and the existence of the building or building works is seriously detrimental to the amenities of the neighbourhood; or

(d) the building or building works constitute a public nuisance,

the Building Authority may, instead of making an order under section 24(1), apply to the District Court for an order under subsection (9).

- (2) Notice of an application for an order under subsection (9) shall be given by the building Authority by posting a copy of such notice upon a conspicuous part of the building or building works to which the notice relates, and upon being so posted such notice shall be deemed to be notice to all persons of such application.

- (3) The notice given under subsection (2) shall be given by the Building Authority at least—
- (a) where any circumstance described in paragraph (a) or (d) of subsection (1) exists, 3 days; or
  - (b) in any other case, 7 days,
- before the day of hearing by the District Court of the application.
- (4) The notice given under subsection (2) shall be in both English and Chinese and shall—
- (a) state the time and place set for the hearing of the application and advise that any person affected by such application may apply under subsection (7) to be heard at the hearing of the application;
  - (b) specify the building or building works sought to be demolished or altered;
  - (c) specify such premises or any part thereof, if any, which it is necessary to close in order that the demolition or alteration works sought to be carried out in respect of the building or building works can be carried out without danger to the occupiers of the premises or that part or to the public;
  - (d) state that no work other than the demolition or alteration of the building or building works as described in the notice shall be carried out on the building or building works to which the notice relates unless authorized by the Building Authority or until a notice of withdrawal is posted under subsection (5) or the application under subsection (1) is refused;
  - (e) state that no person shall obliterate, deface or otherwise render illegible the notice or, unless he is authorized to do so by the Building Authority, remove it;

- (f) state that any person who contravenes the restriction referred to in paragraph (d) is liable to prosecution and the prescribed penalty; and
  - (g) state that any person who contravenes the restriction referred to in paragraph (e) is liable to prosecution and the prescribed penalty.
- (5) The Building Authority may at any time withdraw an application under subsection (1) and the notice given under subsection (2) by—
- (a) giving notice in writing to the District Court; and
  - (b) posting a copy of such notice upon a conspicuous part of the building or building works to which the notice relates.
- (6) Upon the posting of a notice given under subsection (2), no person shall carry out any work, other than the demolition or alteration of the building or building works as described in the notice, on the building or building works concerned unless authorized to do so by the Building Authority.
- (7) A person affected by an application under subsection (1) may apply to be heard by filing an application in the District Court not less than 1 working day before the date of hearing of the application under subsection (1) and he shall serve a copy of his application on the Building Authority not less than 1 working day before the date of hearing and, if he intends to be legally represented at the hearing, a notice to that effect.
- (8) No person shall obliterate, deface or otherwise render illegible the notice given under subsection (2) or, unless he is authorized to do so by the Building Authority, remove it.
- (9) Upon the application of the Building Authority under subsection (1), the District Court may, on being satisfied—

- (a) that notice of the application has been given in accordance with subsections (2), (3) and (4); and
- (b) that any one or more of the circumstances set out in subsection (1)(a) to (d) exist,

and after considering any representation of a person who has applied to be heard under subsection (7), if any, make an order for the demolition or alteration of the building or building works.

- (10) An order made under subsection (9) shall—
  - (a) specify the building or building works to be demolished or altered;
  - (b) authorize the Building Authority to demolish or cause to be demolished or, as the case may be, to alter or cause to be altered the building or building works specified under paragraph (a) so that it complies with the provisions of this Ordinance, or otherwise to prevent any further contravention thereof;
  - (c) authorize the Building Authority to carry out or cause to be carried out such other incidental works as in the opinion of the Building Authority may be necessary or expedient;
  - (d) specify the premises or such part of the premises, if any, to be closed in order that the demolition or alteration works authorized by the order can be carried out without danger to the occupiers of the premises or that part or to the public;
  - (e) require the work described in paragraphs (b) and (c) to be done within such time limits as may be specified;
  - (f) where appropriate, order the closure of the premises or part specified under paragraph (d) under the direction of a police officer; and

- (g) reproduce in clear and legible form in English and Chinese subsections (14), (17), (19) and (20).
- (11) A copy of an order under subsection (9) shall be—
- (a) posted by the Building Authority upon a conspicuous part of the building or building works to which the order relates; and
  - (b) served by the Building Authority on the occupiers, if any, of the building or building works who have notified the Building Authority of their addresses.
- (12) Where the District Court refuses to make an order under subsection (9), the Building Authority shall—
- (a) post a notice of refusal of the application upon a conspicuous part of the building or building works to which the application relates; and
  - (b) serve a copy thereof on the occupiers, if any, of the building or building works who have notified him of their addresses.
- (13) The prohibition in subsection (6) shall cease to have effect upon the posting of a notice of withdrawal under subsection (5) or the notice of refusal under subsection (12).
- (14) Save with the permission in writing of the Building Authority, no person, other than a public officer in the course of his duty, shall enter or be in the premises or part of the premises which are for the time being ordered to be closed under this section.
- (15) Where he thinks fit, the Building Authority may, subject to such conditions as he thinks fit, by notice in writing permit any person to enter and be in the premises or part of the premises which are for the time being ordered to be closed under this section.

- (16) Any permission granted under subsection (15) may be cancelled by the Building Authority at any time and for any reason.
- (17) Where an order under subsection (9) is in force and any premises or part of any premises have been ordered to be closed under the order—
  - (a) any police officer of or above the rank of inspector, with such assistance as may be necessary, may remove therefrom any person who is in the premises or part of the premises in contravention of subsection (14); and
  - (b) the Building Authority may seal, or cause to be sealed, all or any of the entrances to or exits from the premises or part thereof.
- (18) The Building Authority may recover from the owner of the building or building works, or the person who authorizes the erection of the building or the carrying out of the building works, the cost of any works that the Building Authority carries out, or causes to be carried out, under this section.
- (19) The District Court may, on application by the Building Authority or a person affected by an order under subsection (9), vary or discharge an order under subsection (9).
- (20) Notice of an application under subsection (19) shall be given by posting a copy of the notice upon a conspicuous part of the building or building works to which the application relates or upon a conspicuous part of the premises where the building or building works are situated, as may be appropriate, and—
  - (a) where the Building Authority is the applicant, by serving a copy thereof on the occupiers or former occupiers, if any, of the building or building works who have notified the Building Authority of their addresses; or

- (b) where a person affected by an order under subsection (9) is the applicant, by serving a copy thereof on the occupiers or former occupiers, if any, of the building or building works and on the Building Authority.
- (21) The notice given under subsection (20) shall be given by the applicant at least—
- (a) where the order under subsection (9) sought to be varied or discharged was made by the District Court on being satisfied that any circumstance described in paragraph (a) or (d) of subsection (1) existed, 3 days; or
- (b) in any other case, 7 days,  
before the day of hearing by the District Court of the application under subsection (19).
- (22) Where an order for variation or discharge of an order under subsection (9) is made upon an application under subsection (19), the applicant shall—
- (a) post a notice of the order upon a conspicuous part of the building or building works concerned or upon a conspicuous part of the premises where the building or building works are situated, as may be appropriate; and
- (b) serve a copy thereof on the former occupiers, if any, of the building or building works whose addresses are known to the applicant.

- (23) Where the Building Authority completes the works authorized by an order under subsection (9), the Building Authority shall post a notice of completion of works upon a conspicuous part of the building or building works, or if the building or building works have been demolished, upon a conspicuous part of the premises or part of the premises in or on which the building or building works were formerly situated or carried out or the entrance to such premises or part, and upon the posting of such notice, the order made under subsection (9) shall cease to have effect.
- (24) Every notice served under subsection (23) shall—
  - (a) specify the date upon which the order under subsection (9) ceases to have effect; and
  - (b) where the order ordered the closure of the premises or part of the premises, specify the premises or part of the premises to which the notice relates and, where appropriate, state that such premises or part may be re-occupied.
- (25) The decision of the Building Authority to apply for an order under subsection (9) or to give notice of an application for such an order shall not be subject to appeal under section 44(1).
- (26) A refusal by the District Court to make an order under subsection (9) shall not be a bar to the subsequent making of an order under section 24 by the Building Authority.

*(Added 91 of 1990 s. 3)*

#### **24C. Notice for demolition or alteration of building or building works**

- (1) Where any building has been erected, or where any building works have been or are being carried out, in contravention of any of the provisions of this Ordinance, the Building

Authority, without prejudice to his powers under sections 24 and 24B, may issue a notice in writing—

- (a) identifying the location of the building or building works and the land or premises affected by the building or building works;
  - (b) describing the building or building works which, in the opinion of the Building Authority, has been erected or have been or are being carried out in contravention of any of the provisions of this Ordinance and stating those provisions;
  - (c) stating the powers of the Building Authority under this Ordinance in relation to the building or building works; and
  - (d) specifying a date after which the notice will be registered with the Land Registry in accordance with subsection (4) if before that date—
    - (i) the building or building works is or are not demolished; or
    - (ii) the building or building works is or are not altered in such a manner as to cause the building or building works to comply with those provisions, or otherwise to put an end to the contraventions of those provisions.
- (2) Subject to subsection (3), a notice issued under subsection (1) shall be served on the owner of the land or premises on which the building has been erected or on which the building works have been or are being carried out.
- (3) Where the building or building works is or are—
- (a) connected to land or premises (in this section referred to as *other land or premises*) other than the land or premises on which the building has been erected or on

which the building works have been or are being carried out; and

- (b) occupied or used by the owner or occupier of that other land or premises,

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

- (4) The Building Authority shall, where the building or building works is or are not demolished or altered in the manner described in subsection (1)(d)(ii) before the date specified in the notice, cause the notice to be registered in the Land Registry against—
- (a) if the notice has been served on the owner of any land or premises in accordance with subsection (2), the land or premises; or
  - (b) if the notice has been served on the owner of other land or premises in accordance with subsection (3), that other land or premises.
- (5) A notice under this section shall be deemed to be an instrument affecting land or premises and shall be registrable in the Land Registry.
- (6) Where the building or building works the subject of a notice issued under subsection (1) has or have been demolished or altered in the manner described in subsection (1)(d)(ii), the Building Authority may lodge in the Land Registry an appropriate instrument of satisfaction against that notice.
- (7) Subsection (1) has effect subject to section 112 of the Private Columbaria Ordinance (Cap. 630). *(Added 8 of 2017 s. 118 and E.R. 4 of 2017)*

*(Added 15 of 2004 s. 22)*

## 25. Change in use of buildings

- (1) One month's notice in the specified form shall be given to the Building Authority of any intended material change in the use of a building by the person intending to carry out or authorizing the carrying out of such change. (*Amended 68 of 1993 s. 14*)
- (2) Where in the opinion of the Building Authority any building is not suitable by reason of its construction for its present or intended use, he may by order in writing served on the owner or occupier—
  - (a) within 1 month of the receipt of a notice under subsection (1) prohibit such intended use; or
  - (b) require the owner or occupier to discontinue such present use of the building within 1 month from the service of the order:

Provided that the Building Authority may permit by notice in writing such building works as he deems necessary for the purpose of rendering the building suitable for its present or intended use.

- (3) The use of a building shall be deemed to be materially changed—
  - (a) where the carrying out of building works for the erection of a building intended for such use would have contravened the provisions of this Ordinance; or
  - (b) where the Building Authority could have refused to give approval to plans of such building works under section 16(1)(g). (*Replaced 44 of 1959 s. 11*)

## 26. Dangerous buildings

- (1) Where in the opinion of the Building Authority any building

has been rendered dangerous or liable to become dangerous by fire, wind, rain, dilapidation, use, lack of fire escapes or any other cause, the Building Authority may by order in writing served on the owner declare such building to be dangerous or liable to become dangerous. *(Amended 68 of 1993 s. 15)*

(2) Such order may—

- (a) require the demolition of the whole or part of such building;
  - (b) require that the building be made safe generally;
  - (c) specify work that must be done to make such building safe;
  - (d) require that shoring shall be erected and may specify the manner and location thereof;
  - (e) require a fence or hoarding for the protection of the public;
  - (f) require the closure of such building; and
  - (g) specify the time within which the demolition, shoring, erection of fencing or hoarding, closure or other work or thing required by such order shall be commenced and the time within which the same shall be completed.
- (Amended 16 of 1966 s. 8)*

(2A) The Building Authority may, upon the service of an order under this section, cause the order to be registered by memorial in the Land Registry against the building to which the order relates. *(Added 55 of 1996 s. 3)*

(3) Where the owner of a building which in the opinion of the Building Authority has been rendered dangerous or liable to become dangerous by fire, wind, rain, dilapidation, use, lack of fire escapes or any other cause, cannot be found or fails to comply with the requirements of an order served under

this section, the Building Authority may carry out or cause to be carried out the work specified in such order or such other work as he considers to be necessary and, subject to subsection (3A), the cost of such work shall be recoverable from that owner. (*Amended 16 of 1966 s. 8; 55 of 1996 s. 3*)

- (3A) If the order has been registered with the Land Registry in accordance with subsection (2A), the cost of any work that the Building Authority carried out or caused to be carried out under subsection (3) shall be recoverable from any person who, as at the date of completion of the work, is the owner of the building to which the order relates. (*Added 55 of 1996 s. 3*)
- (3B) A certificate purporting to be under the hand of the Building Authority and stating the date of completion of any work carried out under subsection (3) shall be *prima facie* evidence of that fact. (*Added 55 of 1996 s. 3*)
- (4) In cases of emergency the Building Authority may carry out or cause to be carried out such work as may appear to him to be necessary either without notice to the owner, or before or after such notice, and so far as it is in the opinion of the Building Authority attributable to such emergency the cost thereof shall be recoverable from the owner. The decision of the Building Authority that the particular case is one of emergency shall be final and binding on all persons.
- (5) This section shall apply to any building works as it does to any building with the following modifications—
  - (a) any reference in this section to the owner of any building shall, in the case of building works, mean—
    - (i) in the case of completed works, the owner thereof; and
    - (ii) in any other case, the person for whom the works are being carried out or his agent;

- (b) any order of the Building Authority under this section may, where the building works are appurtenant to any building, extend to that building; and (*Amended L.N. 159 of 1990*)
- (c) subsection (2)(f) shall be construed as relating to any building to which the building works are appurtenant. (*Added 59 of 1983 s. 2*)

## **26A. Defective buildings**

- (1) Where, on inspection, the Building Authority finds any dilapidation or defect in a building he may by order in writing served on the owner of such building require—
  - (a) such works as may be specified in the order to be carried out;
  - (b) an authorized person to be appointed to carry out such investigation in relation to the building as may be so specified; and
  - (c) the submission for approval by the Building Authority of proposals for remedial work to be carried out as regards the dilapidation or defect, being proposals based on the findings of the investigation,
- within such time or times as may be specified in the order.
- (2) Where proposals for work are submitted pursuant to an order under subsection (1), the Building Authority may—
  - (a) approve the proposals;
  - (b) require amendments to or substitution of the proposals; or
  - (c) refuse to approve the proposals.
- (3) On approving any proposal for remedial work required to be submitted under subsection (1), the Building Authority may by order in writing served on the owner referred to in that

subsection require the carrying out of such approved work within such time as may be specified in the order.

- (4) All work and investigations specified in an order under this section shall be carried out to such standard acceptable to the Building Authority and in compliance with the regulations.
- (4A) The Building Authority may, upon the service of an order under this section, cause the order to be registered by memorial in the Land Registry against the building to which the order relates. *(Added 55 of 1996 s. 4)*
- (5) Where the owner referred to in subsection (1) cannot be found or fails to comply with any requirement of an order served under this section or where there is a failure to comply with the requirement in subsection (4) or where approval is refused for proposals submitted under this section, the Building Authority may, without further notice, carry out or cause to be carried out—
  - (a) all or any part of the work or investigation specified in the order;
  - (b) such other investigation as he considers to be necessary or expedient; and
  - (c) such remedial work as he considers to be necessary or expedient as regards the dilapidation or defect, having had regard to the findings of the investigation in relation to the building, whether such investigation is done by the owner referred to in subsection (1) or by the Building Authority,
- and, subject to subsection (6), the Building Authority may recover the cost of such work or investigation from that owner. *(Amended 55 of 1996 s. 4)*
- (6) If the order has been registered with the Land Registry in accordance with subsection (4A), the cost of any work or investigation that the Building Authority carried out or caused

to be carried out under subsection (5) shall be recoverable from any person who, as at the date of completion of the work or investigation (as the case may be), is the owner of the building to which the order relates. (*Added 55 of 1996 s. 4*)

- (7) A certificate purporting to be under the hand of the Building Authority and stating the date of completion of any work or investigation carried out under subsection (5) shall be prima facie evidence of that fact. (*Added 55 of 1996 s. 4*)

*(Added 77 of 1992 s. 2)*

## 27. Closure Order

- (1) Upon the application of—

- (a) the Building Authority, where he is of the opinion that—  
(i) any building is dangerous or liable to become dangerous; or  
(ii) any building should be closed in order to enable any works, which he is empowered to carry out or cause to be carried out under this Part, to be carried out without danger to the occupiers or to the public; or (*Replaced 59 of 1983 s. 3*)

- (b) the owner—

- (i) where a notice has been served upon him by the Building Authority requiring closure of a building under section 26; or  
(ii) where the Building Authority has supplied a certificate to him showing that a building should be closed in order to enable building works to be carried out without danger to the occupiers or to the public,

the District Court shall on being satisfied that notice has been given in accordance with the provisions of subsection (2) make a Closure Order: (*Amended 35 of 1969 Schedule*)

Provided that nothing in paragraph (b)(ii) shall entitle an owner to carry out any building works which would result in a contravention of Part I of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7).

- (2) (a) Not less than 7 days' notice of intention to apply for a Closure Order shall be given by the person making such application by posting a copy of such notice upon a conspicuous part of the building to be affected, and upon being so posted such notice shall be deemed to be notice to all persons of such intention: (*Amended 40 of 1965 s. 5*)

Provided that in the case of an emergency such notice shall be given as is practicable.

- (b) The notice shall reproduce in clear and legible form subsections (8), (10) and (11) in both the English and Chinese languages. (*Amended 23 of 1969 s. 6*)

- (3) (*Repealed 23 of 1969 s. 6*)

- (4) A Closure Order made under this section shall—

- (a) specify the building to be closed; and  
(b) order the closure thereof under the direction of a police officer. (*Amended 23 of 1969 s. 6*)

- (5) (a) Save with the permission in writing of the Building Authority, no person, other than a public officer in the course of his duty, shall enter or be in a building at any time while a Closure Order is in force in respect of that building.

- (b) Where he thinks fit, the Building Authority may, subject to such conditions as he thinks fit, by notice in writing

permit any person to enter and be in a building while a Closure Order is in force in respect of that building.

- (c) Any permission granted under paragraph (b) may be cancelled by the Building Authority at any time and for any reason. (*Replaced 40 of 1965 s. 5*)
- (6) Where a Closure Order is in force in respect of a building—
  - (a) any police officer of or above the rank of inspector, with such assistance as may be necessary, may remove therefrom any person who is in the building in contravention of subsection (5)(a); and
  - (b) the Building Authority may seal, or cause to be sealed, all or any of the entrances to or exits from the building. (*Added 40 of 1965 s. 5*)
- (7) The Building Authority may recover from the owner of the building the cost of any works that he carries out, or causes to be carried out, under subsection (6)(b). (*Added 40 of 1965 s. 5*)
- (8) A Closure Order shall remain in force in respect of a building until—
  - (a) the Building Authority has caused a notice, to be known as a notice of expiry of the Closure Order to be posted upon a conspicuous part of the building to which the Closure Order relates and, subject to subsection (11), has served a copy of the notice of expiry on the owner of the building; or
  - (b) the building to which the Closure Order relates is completely demolished or otherwise ceases to exist, as the case may be. (*Replaced 55 of 1996 s. 5*)
- (9) Every notice of expiry of a Closure Order shall specify—
  - (a) the building to which it relates; and

- (b) the date upon which the Closure Order expires.  
*(Replaced 23 of 1969 s. 6)*
- (10) Where an owner has received a copy of a notice of expiry of a Closure Order under subsection (8)(a), such owner shall—  
*(Amended 55 of 1996 s. 5)*
- (a) cause copies thereof to be served upon all former occupiers of the building who have notified him of their addresses; and
  - (b) within 14 days of the date of such notice, serve upon the Building Authority a certificate in such form as the Building Authority may specify, setting out—
    - (i) the names and addresses of such former occupiers of the building as have notified him of their addresses; and
    - (ii) the date upon which each of such former occupiers was served with a copy of the notice of expiry of the Closure Order.  
*(Replaced 23 of 1969 s. 6)*
- (11) Notwithstanding the provisions of subsection (8)(a) as to service of a copy of a notice of expiry of a Closure Order upon the owner, where—  
*(Amended 55 of 1996 s. 5)*
- (a) the owner cannot be found or ascertained, or is absent from Hong Kong, or is under a disability; or  
*(Amended 62 of 2000 s. 3)*
  - (b) the notice of expiry of the Closure Order is served on the completion of works by the Building Authority in accordance with his powers in that behalf under section 26,
- then the Building Authority shall cause copies of the notice of expiry of the Closure Order to be—
- (i) served upon all former occupiers of the building of whose addresses he is aware; and

- (ii) advertised in at least 1 English language newspaper and 1 Chinese language newspaper published in Hong Kong.  
*(Added 23 of 1969 s. 6)*

**27A. Dangerous hillsides, etc.**

- (1) Where in the opinion of the Building Authority any natural, formed or man-made land, or any earth-retaining structure, has due to any cause been rendered so dangerous or liable to become so dangerous that it will collapse, or be likely to collapse, either totally or partially, and thereby will cause, or will be likely to cause, a risk of injury to any person or damage to any property, the Building Authority may by order in writing served on the owner of the land or structure, or on the person who under the terms of a Government lease is under an obligation to maintain the land or structure, declare the land or structure to be dangerous or liable to become dangerous. *(Amended 68 of 1993 s. 16; 29 of 1998 s. 105)*
- (2) An order under subsection (1) may require the owner or person referred to in subsection (1)—
- to do such work as may be specified in the order;
  - to appoint an authorized person, a registered structural engineer or a registered geotechnical engineer or any combination of them specified in the order to carry out such investigation in relation to the land or structure as may be so specified; and *(Amended 15 of 2004 s. 23)*
  - to submit for approval by the Building Authority proposals for work to be done to make the land or structure safe based on the findings of the investigation, within such time or times as may be specified in the order. *(Replaced 91 of 1990 s. 4)*
- (2A) Where proposals for work are submitted pursuant to an order under subsection (1), the Building Authority may—

- (a) approve the proposals;
  - (b) require amendments to or substitution of the proposals; or
  - (c) refuse the proposals. *(Added 91 of 1990 s. 4)*
- (2B) On giving approval to proposals for work required to be submitted under subsection (2), the Building Authority may by order in writing served on the owner or person referred to in subsection (1) require the carrying out of such approved work on the land and structure to make the land and structure safe within such time as may be specified in the order. *(Added 91 of 1990 s. 4)*
- (2C) All work and investigations specified in an order under this section shall be carried out to such standard acceptable to the Building Authority and in compliance with regulations. *(Added 91 of 1990 s. 4)*
- (2D) Upon the service of an order under this section, the Building Authority shall—
  - (a) in the case of an order served on the owner referred to in subsection (1), cause the order to be registered by memorial in the Land Registry against the land or structure to which the order relates; and
  - (b) in the case of an order served on the person referred to in subsection (1), cause the order to be registered by memorial in the Land Registry against the property that is leased under the Government lease referred to in that subsection. *(Added 55 of 1996 s. 6. Amended 29 of 1998 s. 105)*
- (3) Where the owner or person referred to in subsection (1) cannot be found or fails to comply with the requirements of an order served under this section or any part of the order or where there is failure to comply with the requirement of subsection (2C) or where proposals submitted under this

section are refused, the Building Authority may, without further notice, carry out or cause to be carried out—

- (a) all or any part of the work or investigation specified in the order;
- (b) such other investigation as he considers to be necessary or expedient from time to time; and
- (c) such work as he considers to be necessary or expedient to make the land and structure safe, based on the findings of the investigation on the land and structure, whether such investigation is done by the owner or person or by the Building Authority,

and, subject to subsection (3A), the cost of such work or investigation shall be recoverable from that owner or person.

*(Amended 91 of 1990 s. 4; 55 of 1996 s. 6)*

(3A) If the order has been registered with the Land Registry in accordance with subsection (2D), the cost of any work or investigation that the Building Authority carried out or caused to be carried out under subsection (3) shall be recoverable from any person who, as at the date of completion of the work or investigation (as the case may be), is—

- (a) where subsection (2D)(a) applies, the owner of the land or structure to which the order relates; or
- (b) where subsection (2D)(b) applies, the person who under the terms of the relevant Government lease is under an obligation to maintain the land or structure to which the order relates. *(Added 55 of 1996 s. 6. Amended 29 of 1998 s. 105)*

(3B) A certificate purporting to be under the hand of the Building Authority and stating the date of completion of any work or investigation carried out under subsection (3) shall be prima facie evidence of that fact. *(Added 55 of 1996 s. 6)*

- (4) In cases of emergency the Building Authority may carry out or cause to be carried out such work as may appear to him to be necessary either without notice to the owner or person referred to in subsection (1), or before or after such notice, and so far as it is in the opinion of the Building Authority attributable to such emergency the cost thereof shall be recoverable from the owner or person. The decision of the Building Authority that the particular case is one of emergency shall be final and binding on all persons. (*Amended L.N. 159 of 1990*)

(*Added 72 of 1980 s. 10*)

**27B. Danger to buildings caused by abstraction of groundwater from wells**

- (1) Where in the opinion of the Building Authority—
- (a) a building is dangerous or is liable to become dangerous; and
  - (b) the cause of its being dangerous or liable to become dangerous is, wholly or partly, the abstraction, whether continuing or past, of groundwater from a well situated in area number 2 of the scheduled areas,

the Building Authority may, by order in writing, declare that the building is dangerous or liable to become dangerous.

- (2) An order under subsection (1) shall be served on the owner of the well.
- (3) An order under subsection (1) may—
- (a) require the owner of the well to ensure that such abstraction cease permanently;
  - (b) state that the Building Authority proposes to carry out such works as specified in the order to close the well

and such other works as he considers necessary for the purpose; and

- (c) specify as regards any requirement made under paragraph (a) or matter specified in paragraph (b), the period within which such requirement must be complied with or work is to be commenced, carried out or completed.
- (4) Notwithstanding anything in this section, where the Building Authority considers that there is an emergency due to the abstraction of groundwater from a well referred to in subsection (1)(b) he may, for the purpose of closing that well, carry out or cause to be carried out such work as appears to him to be necessary having regard to the emergency and may do so without an order under subsection (1) or any other notice to the owner.
- (5) The decision of the Building Authority that an emergency exists shall not be subject to an appeal under section 44.
- (6) Nothing in this section shall be construed as limiting any power of the Building Authority under section 26 as regards a building affected by abstraction of groundwater.

*(Added 77 of 1994 s. 10)*

## **27C. Water pipes, drains or sewers laid in slopes, etc.**

- (1) If—
  - (a) a water pipe, drain or sewer of any building is laid in, on or under the ground in or in the vicinity of any natural, formed or man-made land, or any earth-retaining structure; and
  - (b) subject to subsection (12), in the opinion of the Building Authority any leakage, defect or inadequacy of the water pipe, drain or sewer may result in a landslip of the land or a collapse of the structure, either totally or partially, and such landslip or collapse may cause, or may be

likely to cause, a risk of injury to any person or damage to any property,

the Building Authority may make and serve on the owner of the building such order as referred to in subsection (2).

- (2) The order shall be in writing and may require the owner of the building—
  - (a) to appoint an authorized person to carry out such investigation in relation to the water pipe, drain or sewer as may be specified in the order;
  - (b) to cause such investigation to be commenced and completed within such times as may be specified in the order;
  - (c) to cause a written report on the findings of such investigation to be prepared by the person appointed to carry out the investigation, and to submit such written report to the Building Authority within such time as may be specified in the order; and
  - (d) to submit for approval by the Building Authority proposals for work to be done to remedy any leakage, defect or inadequacy of the water pipe, drain or sewer, based on the findings of such investigation, within such time as may be specified in the order.
- (3) Where proposals for work are submitted pursuant to an order under subsection (1), the Building Authority may—
  - (a) approve the proposals;
  - (b) require amendments to or substitution of the proposals; or
  - (c) refuse the proposals.
- (4) On giving approval to proposals for work required to be submitted under subsection (2), the Building Authority may by order in writing served on the owner referred to in

subsection (1) require the carrying out of such approved work within such time as may be specified in the order.

- (5) All investigation and work specified in an order under this section shall be carried out to such standard acceptable to the Building Authority and in compliance with regulations.
- (6) The Building Authority may, upon the service of an order under subsection (1), cause the order to be registered by memorial in the Land Registry against the building to which the order relates.
- (7) Where the owner referred to in subsection (1) cannot be found or fails to comply with the requirements of an order served under this section or any part of the order or where there is a failure to comply with the requirement of subsection (5) or where proposals submitted under this section are refused, the Building Authority may, without further notice, carry out or cause to be carried out—
  - (a) all or any part of the investigation or work specified in the order;
  - (b) such other investigation as he considers to be necessary or expedient; and
  - (c) such work as he considers to be necessary or expedient to remedy the leakage, defect or inadequacy, having regard to the findings of the investigation in relation to the water pipe, drain or sewer, whether such investigation is carried out by the owner referred to in subsection (1) or by the Building Authority,  
and, subject to subsection (8), the Building Authority may recover the costs of such investigation and work from that owner.
- (8) If the order has been registered with the Land Registry in accordance with subsection (6), the cost of the investigation or work that the Building Authority carried out or caused

to be carried out under subsection (7) shall be recoverable from any person who, as at the date of completion of the investigation or work (as the case may be), is the owner of the building to which the order relates.

- (9) A certificate purporting to be under the hand of the Building Authority and stating the date of completion of the investigation or work carried out under subsection (7) shall be *prima facie* evidence of that fact.
- (10) In cases of emergency, the Building Authority may carry out or cause to be carried out such investigation and work in respect of any leakage, defect or inadequacy of the water pipe, drain or sewer referred to in subsection (1) as may appear to him to be necessary by reason of the emergency either with or without notice to the owner referred to in that subsection, and the cost of such investigation and work shall be recoverable from that owner.
- (11) The decision of the Building Authority that an emergency exists shall not be subject to an appeal under section 44.
- (12) (a) If the Building Authority is of the opinion that no leakage, defect or inadequacy of the water pipe, drain or sewer referred to in subsection (1)(b) is likely, no order shall be served under subsection (1).  
(b) In forming his opinion under paragraph (a), the Building Authority may have regard to all matters which he considers relevant and on which information is available to him, and such matters include but are not limited to—
  - (i) the age of the water pipe, drain or sewer; and
  - (ii) records of investigation and maintenance works in respect of the water pipe, drain or sewer.

*(Added 55 of 1996 s. 7)*

## 28. Drainage

- (1) All drainage works for any building shall, save as provided by regulations, be carried out by the owner of such building to the satisfaction of the Building Authority and in compliance with regulations. (*Amended 44 of 1959 s. 12*)
- (2) Where in the opinion of the Building Authority any group of buildings may be drained more advantageously in combination than separately he may—
  - (a) by an order in writing served on the owners of such buildings require to be carried out the necessary drainage works under a combined plan approved by him; or
  - (b) carry out or cause to be carried out such works, and recover the cost thereof from such owners.
- (3) Where in the opinion of the Building Authority the drains or sewers of any building are inadequate or in a defective or insanitary condition he may by an order in writing served on the owner of such building require—
  - (a) such drainage works as may be specified in the order to be carried out;
  - (b) an authorized person to be appointed to carry out such investigation in relation to the drains or sewers of such building as may be so specified; and
  - (c) the submission for approval by the Building Authority of proposals for drainage works to be carried out to remedy the inadequacy or the defective or insanitary condition, being proposals based on the findings of the investigation,  
within such time or times as may be specified in the order.  
(*Amended 42 of 1992 s. 3; 77 of 1992 s. 3*)
- (4) Where proposals for drainage works are submitted pursuant to an order under subsection (3), the Building Authority may—

- (a) approve the proposals;
  - (b) require amendments to or substitution of the proposals; or
  - (c) refuse to approve the proposals. (*Replaced 77 of 1992 s. 3*)
- (5) On approving any proposal for drainage works required to be submitted under subsection (3), the Building Authority may by an order in writing served on the owner referred to in that subsection require the carrying out of such approved works within such time as may be specified in the order. (*Added 77 of 1992 s. 3*)
- (6) All investigations specified in an order under this section shall be carried out to such standard acceptable to the Building Authority and in compliance with the regulations. (*Added 77 of 1992 s. 3*)
- (6A) The Building Authority may, upon the service of an order under this section, cause the order to be registered by memorial in the Land Registry against the building to which the order relates. (*Added 55 of 1996 s. 8*)
- (7) Where the owner referred to in subsection (3) cannot be found or fails to comply with any requirements of an order served under this section or where there is a failure to comply with any requirement in subsection (1) or (6) or where approval is refused for proposals submitted under this section, the Building Authority may, without further notice, carry out or cause to be carried out—
  - (a) all or any part of the drainage works or investigation specified in the order;
  - (b) such other investigation as he considers to be necessary or expedient; and

(c) such drainage works as he considers to be necessary or expedient to remedy the inadequacy or the defective or insanitary condition, having had regard to the findings of the investigation in relation to the drains or sewers of the building, whether such investigation is done by the owner referred to in subsection (3) or by the Building Authority,

and, subject to subsection (7A), the cost of such drainage works or investigation shall be recoverable from that owner.

*(Added 77 of 1992 s. 3. Amended 55 of 1996 s. 8)*

- (7A) If the order has been registered with the Land Registry in accordance with subsection (6A), the cost of any drainage works or investigation that the Building Authority carried out or caused to be carried out under subsection (7) shall be recoverable from any person who, as at the date of completion of the drainage works or investigation (as the case may be), is the owner of the building to which the order relates. *(Added 55 of 1996 s. 8)*
- (7B) A certificate purporting to be under the hand of the Building Authority and stating the date of completion of any drainage works or investigation carried out under subsection (7) shall be *prima facie* evidence of that fact. *(Added 55 of 1996 s. 8)*
- (8) In cases of emergency the Building Authority may carry out or cause to be carried out such drainage works as may appear to him to be necessary by reason of the emergency either with or without notice to the owner referred to in subsection (3) and the costs thereof shall be recoverable from that owner. *(Added 77 of 1992 s. 3)*
- (9) The decision of the Building Authority that a particular case is one of emergency shall be final and binding on all persons. *(Added 77 of 1992 s. 3)*

*(Amended 44 of 1959 s. 12)*

## **28A. Groundwater drainage works in scheduled area**

- (1) For the purposes of this section and sections 28B, 28C and 28D ***the relevant works*** (有關工程) means the groundwater drainage works considered necessary by the Building Authority under subsection (2), ***maintain*** and ***maintenance*** (保養) include respectively repair and repairs, and ***successor*** (繼承人), in relation to any person, means a person who derives title under a disposition for valuable consideration and any other successor in title.
- (2) Where, in connexion with any building works in area number 1 of the scheduled areas, the Building Authority considers that groundwater drainage works, whether or not extending beyond the boundaries of the site upon which the building works are to be carried out, are necessary, he may require plans prescribed by regulations to show the relevant works notwithstanding that the relevant works extend beyond those boundaries. (*Amended 52 of 1990 s. 6*)
- (3) Any approval by the Building Authority of plans showing the relevant works shall include a requirement to maintain the relevant works to the satisfaction of the Building Authority for any period specified in the requirement; and section 28B shall apply in relation to the maintenance of the relevant works as it applies in relation to the carrying out of the works.

*(Added 41 of 1982 s. 8)*

## **28B. Authorization to carry out relevant works in case of objection etc. by persons whose property is affected**

- (1) Where the relevant works or any part thereof cannot be carried out by reason of the objection or want of agreement of any person whose property would be entered upon, cut through or interfered with by or for the purpose of the works,

the person in connexion with whose building works any plans for the relevant works have been approved or, as the case may be, any of his successors may apply in the specified form to the Building Authority for an order under this section authorizing him to carry out the relevant works.

- (2) Notice in writing of the application, of the place where it can be inspected and of the time, which shall be the period of 30 days commencing with the date of service of the notice, within which objections to the relevant works may be made to the Building Authority shall be served by him on every person, not a party to the application, whose property is proposed to be entered upon, cut through or interfered with:  
Provided that, in the case of any such person who is not known, it shall be sufficient notice to cause a copy of the notice to be published under subsection (3).
- (3) Without prejudice to section 35, the Building Authority shall cause a copy of the notice required by subsection (2) to be published once in the Gazette and once in 2 English language and 2 Chinese language daily newspapers.
- (4) The Building Authority shall consider every objection to the relevant works made to him within the time specified in the notice and not withdrawn and, by order in writing, may, subject to such conditions as he considers necessary, authorize with or without alteration the carrying out of the relevant works.
- (5) Notice in writing of any authorization under subsection (4) or of any refusal so to authorize shall be served by the Building Authority on every person required to be served with a notice under subsection (2).
- (6) The person authorized under subsection (4) shall have authority to carry out the relevant works and for that purpose to enter upon any land specified in the authorization.

- (7) An authorization granted under subsection (4) to any person shall be deemed also to authorize any servant or agent of that person, and the agent's servants.

*(Added 41 of 1982 s. 8. Amended 68 of 1993 s. 17)*

## **28C. Magistrate's warrant**

- (1) If a magistrate is satisfied by evidence on oath that the entry upon any land or the carrying out or maintenance of any groundwater drainage works by any person authorized under section 28B(4) has been obstructed, he may upon application by or on behalf of the person so authorized issue a warrant in the form in Schedule 6 authorizing— *(Amended 16 of 2011 s. 19)*
- (a) every person so authorized before the issue of the warrant to enter upon the land on such occasions and at such times as may be necessary for the purpose for which the authorization under section 28B(4) was granted and to carry out or maintain any such authorized works; and
- (b) any police officer of or above the rank of inspector and any other police officer acting under his direction to enter upon the land in company with, and for the purpose of preventing the obstruction of, any person authorized under paragraph (a), and in the execution of the warrant any such police officer may use such force as may be necessary.
- (2) A copy, in the English language and in the Chinese language, of any warrant issued under subsection (1) shall be posted in a conspicuous position on the land to which it relates.

*(Added 41 of 1982 s. 8)*

## **28D. Obligation to make good, and compensation for, damage**

- (1) Any damage to any land entered upon under section 28B(6) or 28C(1) or to any property thereon, whether above or below ground level, caused by or resulting from the carrying out or maintenance of the relevant works shall be made good as soon as practicable by the person authorized under section 28B(4).
- (2) Any person who, by reason of the carrying out or maintenance of the relevant works, suffers any loss or damage to any land or property entered upon, cut through or interfered with shall be entitled to recover compensation from the person in connexion with those building works the relevant works are carried out or maintained or, as the case may be, from any of his successors.
- (3) Where any dispute arises as to—
  - (a) whether compensation is payable under this section;
  - (b) the amount of any such compensation; or
  - (c) the person by or to whom it is payable,

any person who, by reason of the carrying out or maintenance of the relevant works, has suffered any loss or damage to any land or property entered upon, cut through or interfered with may apply to the Lands Tribunal to hear and determine the dispute, except where he and the person in connexion with whose building works the relevant works are carried out or maintained or, as the case may be, any of that person's successors have entered into an agreement in writing for the payment of an ascertained amount of compensation.
- (4) An application under subsection (3) may be made within 3 years of the date on which the loss or damage was suffered or within such extended time as the Lands Tribunal may in its discretion allow.
- (5) The Lands Tribunal shall have jurisdiction to hear and determine any application under subsection (3); and in the

application of the Lands Tribunal Ordinance (Cap. 17) to any such determination, section 11(1) of that Ordinance shall have effect as if for paragraphs (a) and (b) thereof there were substituted the words “any application under section 28D(3) of the Buildings Ordinance (Cap. 123)”.

*(Added 41 of 1982 s. 8)*

**29. Construction and maintenance of private streets and access roads**

- (1) Every private street and access road shall be surfaced, channelled, seweried and drained to the satisfaction of the Building Authority and in compliance with regulations and lighted to the satisfaction of the Building Authority, and shall be maintained in good order to his satisfaction, by the frontagers.
- (2) Where any private street or access road is not so surfaced, channelled, seweried, drained, lighted or maintained in good order, the Building Authority—
  - (a) may by order in writing served on the frontagers require them to carry out, within such time as may be specified therein, such work as he considers necessary; or
  - (b) where, in the case of a private street, the public interest would, in his opinion, be better served if such work were carried out by him or under his direction, may, subject to the provisions of subsection (3), carry out such work himself, notwithstanding that the frontagers may be willing to carry out such work.
- (3) (a) Where, pursuant to the provisions of subsection (2)(b) the Building Authority intends to carry out any work, he shall give notice of his intention to the frontagers.  
(b) Any such frontager who wishes to object to the carrying out of such work by the Building Authority shall give

notice of his objection, specifying the grounds thereof, within a period of 14 days from the giving of the notice required by paragraph (a).

- (c) The Building Authority shall not commence or authorize the commencement of such work until the expiration of the said period of 14 days or, where he has received any objection within such period, until he has considered and made reply thereto, whichever is the later.
- (4) If any order made under subsection (2)(a) is not complied with, the Building Authority may carry out or cause to be carried out the work required thereby to be carried out.
- (5) Where in the opinion of the Building Authority a private street or access road has been rendered dangerous or liable to become dangerous and emergency has thereby arisen, he may carry out or cause to be carried out such work as may appear to him to be necessary, either without notice to the frontagers or before or after such notice. The decision of the Building Authority that the particular case is one of emergency shall be final and binding on all persons. *(Added 40 of 1965 s. 6)*
- (6) The Building Authority may recover the cost of any work carried out pursuant to the provisions of subsection (2)(b) or of subsection (4), or the cost of any work carried out pursuant to the provisions of subsection (5) so far as it is in his opinion attributable to the emergency, from the frontagers; and the Building Authority shall apportion such cost— *(Amended 40 of 1965 s. 6)*
  - (a) in the case of private streets, according to the frontages of the premises owned by such frontagers; or
  - (b) in the case of an access road, in proportion to the areas of the lots to which the road provides access. *(Replaced 37 of 1961 s. 4)*

- (7) (a) Upon the application of the frontager on a private street or, where there are more than one of the greater part in value of such frontagers, the Building Authority may, where he considers that the use of the street by the public is such as to justify its maintenance at the expense of the Government, undertake the further maintenance of the street.
- (b) The Building Authority shall not undertake the further maintenance of any private street until—
- (i) the owner or owners of the land on which the street is constructed have surrendered such land to the Government free from all competing rights, titles, interests, trusts, claims, liens, demands and restrictions of all kinds whatsoever; and
- (ii) any order which he may have made under subsection (2)(a) has been complied with.
- (8) The Building Authority may exempt from the application of this section, either wholly or in part, any private street on which no buildings front or abut.
- (9) The cost of the supply of gas or electricity for the lighting of any private street and the cost of maintaining all apparatus required for such purpose shall be borne by the Government.  
*(Amended 37 of 1961 s. 4)*
- (10) Where the Building Authority certifies that the lighting of an access road is in the public interest on the grounds of public safety, good order and security, the cost of the supply of gas or electricity for the lighting of the access road and the cost of maintaining all apparatus required for such purposes shall be borne by the Government.  
*(Added 37 of 1961 s. 4)*

*(Replaced 44 of 1959 s. 13)*

## **29A. Maintenance of emergency vehicular access**

- (1) An emergency vehicular access shall be maintained in good order by the owner of the emergency vehicular access.
- (2) Where, on inspection, the Building Authority finds—
  - (a) any dilapidation or defect in an emergency vehicular access; or
  - (b) any alteration or addition made to an emergency vehicular access,has resulted, or is likely to result, in the emergency vehicular access being no longer capable of serving the purpose for which it is designed and constructed, the Building Authority may by order in writing served on the owner of the emergency vehicular access require him to carry out, within such time as may be specified in the order, such work as the Building Authority considers necessary.
- (3) Where an order served under subsection (2) is not complied with, the Building Authority may carry out or cause to be carried out the work required by the order to be carried out, and subject to subsection (6), the cost of such work shall be recoverable from the owner of the emergency vehicular access.
- (4) Where in the opinion of the Building Authority, an emergency vehicular access has been rendered dangerous or liable to become dangerous and emergency has thereby arisen, he may carry out or cause to be carried out such work as may appear to him to be necessary, either without service of a notice on the owner of the emergency vehicular access, or before or after such notice, and so far as it is in his opinion attributable to such emergency, the cost of such work shall be recoverable from the owner of the emergency vehicular access. The decision of the Building Authority that the particular case is one of emergency shall be final and binding on all persons.

- (5) The Building Authority may, upon the service of an order under subsection (2), cause the order to be registered in the Land Registry against the emergency vehicular access to which the order relates.
- (6) Where the order has been registered with the Land Registry in accordance with subsection (5), the cost of any work carried out pursuant to subsection (3) shall be recoverable from any person who, as at the date of completion of the work, is the owner of the emergency vehicular access to which the order relates.
- (7) A certificate purporting to be under the hand of the Building Authority and stating the date of completion of any work carried out under subsection (3) shall be *prima facie* evidence of that fact.

*(Added 15 of 2004 s. 24)*

### **30. Openings to or from streets**

- (1) Save where the Building Authority has given his consent—
  - (a) under this section, or
  - (b) for the commencement of building works or street works which include such works,  
no person shall carry out works for the construction, formation, laying out, or alteration of any means of access or opening to or from any street.
- (2) The Building Authority may refuse to give his consent for such works where in his opinion the intended access or opening to or from any street is such as to—
  - (a) be dangerous or likely to be dangerous; or
  - (b) be prejudicial to the safety or convenience of traffic or pedestrians using or expected to use such street.

## Buildings Ordinance

Part 2

2-160

Section 30

Cap. 123

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- (3) In giving his consent the Building Authority may by order in writing impose such conditions as he considers necessary for securing the safety and convenience of traffic and pedestrians using or expected to use the street.
- (4) Works for the construction, formation, laying out or alteration of any means of access or opening to or from any street shall be deemed to be street works for the purposes of sections 22, 23, 24, 33, 35, 37, and Parts 4, 5 and 6.

*(Added 44 of 1959 s. 13. Amended E.R. I of 2012)*

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## Part 2A

### Inspection and Repair of Building

*(Part 2A added 16 of 2011 s. 20)*

*(Format changes—E.R. 2 of 2012)*

#### 30A. Application

This Part does not apply to a domestic building not exceeding 3 storeys in height.

#### 30B. Obligation on owners to carry out prescribed inspection and prescribed repair in respect of buildings

- (1) This section applies to any building aged 30 years or above.
- (2) The age of a building mentioned in subsection (1) is to be determined by the Building Authority—
  - (a) if an occupation permit in respect of the building is issued by the Building Authority under section 21(2), according to the date the occupation permit is issued; and
  - (b) in any other case, according to the evidence available to the Building Authority.
- (3) The Building Authority may by notice in writing served on any owner of a building require a prescribed inspection and, if necessary, prescribed repair in respect of the common parts of the building to be carried out within a specified time.
- (4) If an external wall of a building is not in the common parts of the building, the Building Authority may by notice in writing served on the owner of the external wall require a prescribed inspection and, if necessary, prescribed repair in respect of the external wall to be carried out within a specified time.

- (5) Without limiting subsections (3) and (4), the Building Authority may by notice in writing served on an owner of a building require a prescribed inspection and, if necessary, prescribed repair in respect of any projection as prescribed in the regulations that is connected to that owner's premises in the building and is occupied or used by that owner or any occupier of that premises to be carried out within a specified time.
- (6) Without limiting subsections (3) and (4), if a signboard is erected on a building, the Building Authority may by notice in writing served on—
- the person for whom the signboard is erected;
  - if that person cannot be found, the person who would receive any rent or other money consideration if the signboard were hired out or the person who is receiving such rent or money consideration; or
  - if the persons referred to in paragraphs (a) and (b) cannot be found, the owner of the premises in the building on which the signboard is erected,
- require a prescribed inspection and, if necessary, prescribed repair in respect of the signboard to be carried out within a specified time.
- (7) In a notice served under subsection (3), (4), (5) or (6), the Building Authority may specify for a relevant part of a building—
- the date by which a registered inspector must be appointed to carry out a prescribed inspection in respect of that part of the building;
  - the date by which a prescribed inspection in respect of that part of the building is required to be completed; and

- (c) the date by which a prescribed repair in respect of that part of the building, as may be required under subsection (8), is required to be completed.
- (8) If a prescribed inspection in respect of a relevant part of a building shows that that part of the building has been rendered dangerous, or is liable to become dangerous, the owner on whom the notice is served must carry out a prescribed repair in respect of that part of the building, in accordance with this Ordinance, to render that part of the building safe.
- (9) The Building Authority may cause a notice served under subsection (3), (4), (5) or (6) to be registered by memorial in the Land Registry against the building to which the notice relates.
- (10) If a notice served under subsection (3), (4), (5) or (6) is not complied with, the Building Authority may, without further notification, carry out or cause to be carried out—
  - (a) any inspection in respect of the common parts, external wall, projection or signboard of the building that the Building Authority considers necessary for the purpose of that notice; and
  - (b) any repair works that the Building Authority considers necessary or expedient to render the building safe, having had regard to the findings of an inspection in respect of the building, whether the inspection is carried out or caused to be carried out by the Building Authority under paragraph (a), or by a registered inspector appointed under section 30D(1)(a).
- (11) The cost of the inspection and repair works that the Building Authority has carried out or has caused to be carried out under subsection (10) is recoverable as a debt due to the Government from— *(Amended 24 of 2012 s. 12)*

- (a) if the notice served under subsection (3), (4), (5) or (6) has not been registered with the Land Registry under subsection (9), the person on whom the notice is served; or
  - (b) if the notice served under subsection (3), (4), (5) or (6) has been registered with the Land Registry under subsection (9), the person who is the owner of the relevant part of the building—
    - (i) as at the date of completion of the inspection if the Building Authority has carried out or has caused to be carried out the inspection mentioned in subsection (10)(a) only; or
    - (ii) as at the date of completion of the repair works mentioned in subsection (10)(b) if the Building Authority has carried out or has caused to be carried out the repair works, whether or not the Building Authority has also carried out or has also caused to be carried out the inspection mentioned in subsection (10)(a).
- (12) After a notice under subsection (3), (4), (5) or (6) (*the preceding notice*) has been complied with, a fresh notice in respect of the same part of the building must not be served under that subsection before the expiry of 10 years after the date of the preceding notice.
- (13) In this section, a reference to an inspection or repair of any part of a building does not include an inspection or repair of the windows in the building.

**30C. Obligation on owners to carry out prescribed inspection and prescribed repair in respect of windows**

- (1) This section applies to any building aged 10 years or above.

- (2) The age of a building mentioned in subsection (1) is to be determined by the Building Authority—
  - (a) if an occupation permit in respect of the building is issued by the Building Authority under section 21(2), according to the date the occupation permit is issued; and
  - (b) in any other case, according to the evidence available to the Building Authority.
- (3) Subject to subsection (4), the Building Authority may by notice in writing served on any owner of a building require a prescribed inspection and, if necessary, prescribed repair in respect of the windows in the building to be carried out within a specified time.
- (4) If any window in a building is exclusively used by an owner of the building or any occupier of that owner's premises, the Building Authority may by notice in writing served only on that owner require a prescribed inspection and, if necessary, prescribed repair in respect of the window to be carried out within a specified time.
- (5) In a notice served under subsection (3) or (4), the Building Authority may specify for a window in a building—
  - (a) the date by which a qualified person must be appointed to carry out a prescribed inspection in respect of that window;
  - (b) the date by which a prescribed inspection in respect of that window is required to be completed; and
  - (c) the date by which a prescribed repair in respect of that window, as may be required under subsection (6), is required to be completed.
- (6) If a prescribed inspection in respect of a window in a building shows that the window has been rendered dangerous, or is

liable to become dangerous, the owner on whom the notice is served must carry out a prescribed repair in respect of the window, in accordance with this Ordinance, to render the window safe.

- (7) The Building Authority may cause a notice served under subsection (3) or (4) to be registered by memorial in the Land Registry against the building to which the notice relates.
- (8) If a notice served under subsection (3) or (4) is not complied with, the Building Authority may, without further notification, carry out or cause to be carried out—
  - (a) any inspection in respect of the window concerned that the Building Authority considers necessary for the purpose of that notice; and
  - (b) any repair works that the Building Authority considers necessary or expedient to render the window safe, having had regard to the findings of an inspection in respect of the window, whether the inspection is carried out or caused to be carried out by the Building Authority under paragraph (a), or by a qualified person appointed under section 30E(1)(a).
- (9) The cost of the inspection and repair works that the Building Authority has carried out or has caused to be carried out under subsection (8) is recoverable as a debt due to the Government from— *(Amended 24 of 2012 s. 12)*
  - (a) if the notice served under subsection (3) or (4) has not been registered with the Land Registry under subsection (7), the person on whom the notice is served; or
  - (b) if the notice served under subsection (3) or (4) has been registered with the Land Registry under subsection (7), the person who is the owner of the relevant part of the building—

- (i) as at the date of completion of the inspection if the Building Authority has carried out or has caused to be carried out the inspection mentioned in subsection (8)(a) only; or
  - (ii) as at the date of completion of the repair works mentioned in subsection (8)(b) if the Building Authority has carried out or has caused to be carried out the repair works, whether or not the Building Authority has also carried out or has also caused to be carried out the inspection mentioned in subsection (8)(a).
- (10) After a notice under subsection (3) or (4) (*the preceding notice*) has been complied with, a fresh notice in respect of the same window must not be served under that subsection before the expiry of 5 years after the date of the preceding notice.

#### **30D. Appointment and duties of registered inspectors**

- (1) Any person for whom a prescribed inspection or prescribed repair in respect of a building is to be carried out must appoint—
  - (a) a registered inspector to carry out the prescribed inspection; and
  - (b) a registered inspector to supervise the prescribed repair.
- (2) The registered inspector appointed under subsection (1)(b) may be the same registered inspector appointed under subsection (1)(a).
- (3) A registered inspector appointed under subsection (1)(a) must—
  - (a) carry out the prescribed inspection personally unless otherwise exempted by the regulations; and

- (b) comply generally with this Ordinance.
- (4) A registered inspector appointed under subsection (1)(b) must—
  - (a) provide proper supervision of the carrying out of the prescribed repair;
  - (b) ensure the repair materials to be used—
    - (i) are not defective and comply with this Ordinance; and
    - (ii) have been mixed, prepared, applied, used, erected, constructed, placed or fixed in the manner required for such materials under this Ordinance;
  - (c) ensure the building, for which the registered inspector is appointed to supervise the prescribed repair, is safe or has been rendered safe; and
  - (d) comply generally with this Ordinance.
- (5) A registered inspector appointed under subsection (1)(a) to carry out a prescribed inspection must— *(Amended 24 of 2012 s. 12)*
  - (a) notify the Building Authority of any case of emergency that is revealed during the course of the prescribed inspection; and
  - (b) if the prescribed inspection is carried out under section 30B(3), also notify the Building Authority of any building works—
    - (i) that have been or are being carried out in contravention of any provision of this Ordinance to—
      - (A) the common parts of the building;
      - (B) any external wall, roof or podium of the building (other than the common parts);

- (C) any yard or slope adjoining the building; or
- (D) any street on which the building fronts or abuts; and
- (ii) that are identified during the course of the prescribed inspection. *(Amended 24 of 2012 s. 12)*
- (6) A registered inspector appointed under subsection (1)(b) to supervise a prescribed repair must notify the Building Authority of any case of emergency that is revealed during the course of supervision of the prescribed repair.
- (7) A registered inspector appointed under subsection (1)(a) or (b) must not act, at the same time, as a contractor to carry out the prescribed repair for the same part of the building.
- (8) If a registered inspector appointed under subsection (1)(a) or (b) becomes unwilling to act or unable, whether by reason of termination of appointment or for any other reason, to act, the person for whom the prescribed inspection or prescribed repair is to be, or is being, carried out must appoint another registered inspector to act instead of the original registered inspector.
- (9) A registered inspector appointed under subsection (1)(a) is not allowed to nominate another registered inspector to act in his or her stead even though he or she is temporarily unable to act by reason of illness or absence from Hong Kong.
- (10) If a registered inspector appointed under subsection (1)(b) is temporarily unable to act by reason of illness or absence from Hong Kong, he or she may nominate another registered inspector to temporarily act in his or her stead for the period of illness or absence.
- (11) In this section, a reference to an inspection or repair of a building does not include an inspection or repair of the windows in the building.

**30E. Appointment and duties of qualified persons**

- (1) Any person for whom a prescribed inspection or prescribed repair in respect of a window in a building is to be carried out must appoint—
  - (a) a qualified person to carry out the prescribed inspection; and
  - (b) a qualified person to supervise the prescribed repair.
- (2) The qualified person appointed under subsection (1)(b) may be the same qualified person appointed under subsection (1)(a).
- (3) If a qualified person appointed under subsection (1)(a) is a natural person, the qualified person must—
  - (a) carry out the prescribed inspection personally; and
  - (b) comply generally with this Ordinance.
- (4) If a qualified person appointed under subsection (1)(a) is not a natural person, a representative of the qualified person as prescribed in the regulations must—
  - (a) carry out the prescribed inspection personally; and
  - (b) comply generally with this Ordinance.
- (5) A qualified person appointed under subsection (1)(b) must—
  - (a) provide proper supervision of the carrying out of the prescribed repair;
  - (b) ensure the repair materials to be used—
    - (i) are not defective and comply with this Ordinance; and
    - (ii) have been mixed, prepared, applied, used, erected, constructed, placed or fixed in the manner required for such materials under this Ordinance;

- (c) ensure the window, for which the qualified person is appointed to supervise the prescribed repair, is safe or has been rendered safe; and
- (d) comply generally with this Ordinance.
- (6) If a qualified person appointed under subsection (1)(a) or (b) is a registered general building contractor or registered minor works contractor, the qualified person may also act as a contractor to carry out the prescribed repair.
- (7) A qualified person appointed under subsection (1)(a) or (b) must notify the Building Authority of any case of emergency that is revealed during the course of the prescribed inspection or supervision of the prescribed repair (as the case requires).
- (8) If a qualified person appointed under subsection (1)(a) or (b) becomes unwilling to act or unable, whether by reason of termination of appointment or for any other reason, to act, the person for whom the prescribed inspection or prescribed repair is to be, or is being, carried out must appoint another qualified person to act instead of the original qualified person.
- (9) A qualified person appointed under subsection (1)(a) or (b) is not allowed to nominate another qualified person to act in his or her stead even though he or she is temporarily unable to act by reason of illness or absence from Hong Kong.

#### **30F. Duties of registered general building contractors and registered minor works contractors**

A registered general building contractor or registered minor works contractor appointed to carry out a prescribed repair must ensure the part of the building for which the contractor is appointed to carry out the prescribed repair has been rendered safe.

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## Part 3

### Miscellaneous and General

#### 31. Projections on or over streets

- (1) No building or other structure shall be erected in, over, under or upon any portion of any street whether or not on land held under lease from the Government unless—
- (a) the building or other structure complies with the relevant criteria stipulated in Part II of the Building (Planning) Regulations (Cap. 123 sub. leg. F); (*Amended 20 of 2008 s. 22*)
  - (aa) the building or other structure is a signboard and its location and dimensions do not constitute—
    - (i) a danger to the structure of any building;
    - (ii) a hazard to traffic;
    - (iii) a fire hazard;
    - (iv) an obstruction of any traffic signs, traffic light signals, road markings, or any other equipment or facilities for the monitoring or control of traffic condition;
    - (v) an obstruction or reduction of the width or height of any means of escape or means of access for fire fighting and rescue;
    - (vi) an obstruction of the lighting or ventilation of any building in such a manner as to reduce the quality of light and air available to the building below that required under the regulations; or
    - (vii) a danger to the public; or (*Added 20 of 2008 s. 22*)

- (b) an exemption has been granted by the Building Authority pursuant to section 42. (*Replaced 42 of 1992 s. 4*)
- (2) Where in the opinion of the Building Authority the public interest so requires he may—
- (a) by order in writing served on the owner of the building any part of which projects, or attached to which is any projection, over any street or unleased Government land require the alteration or removal of such projection within 3 months from the service of the order or within such lesser period as the Building Authority may deem necessary in the circumstances; or
- (b) carry out or cause to be carried out such alteration or removal and, except in the case of a projection over a street held on lease from the Government, recover the cost thereof from such owner. (*Amended 29 of 1998 s. 105*)
- (2A) Where the owner referred to in subsection (2)(a) cannot be found or fails to comply with the requirements of an order served under subsection (2)(a), the Building Authority may carry out or cause to be carried out the works specified in the order or such other works as he considers to be necessary and the cost thereof shall be recoverable from the owner. (*Added 42 of 1992 s. 4*)
- (3) Where—
- (a) no exemption is granted by the Building Authority under section 42 for the re-erection over or upon any portion of a street held on lease from the Government of a building which had been so built under the provisions of this or any earlier enactment; or
- (b) the Building Authority exercises his power under subsection (2) to require the alteration or removal of,

or alters or removes any projection built under the provisions of this or any earlier enactment over any street or unleased Government land,

compensation shall be paid by the Government to the owner of such building. (*Amended 23 of 1969 s. 7; 29 of 1998 s. 105*)

- (4) Any dispute as to whether any compensation is payable or as to the amount of such compensation shall, in default of agreement, be determined by arbitration in accordance with the provisions of the Arbitration Ordinance (Cap. 609). (*Amended 17 of 2010 s. 112*)

## **32. Naming of streets and numbering of buildings**

- (1) The Building Authority may affix to or paint or cause to be affixed to or painted on any building which fronts or abuts on any street the name of such street.
- (2) The Building Authority or Commissioner of Rating and Valuation may by an order in writing served on the owner of any building which fronts or abuts on any street require such building to be marked with the number allocated by, and in such manner as may be prescribed by the Commissioner of Rating and Valuation for the purpose of distinguishing such building. (*Amended 44 of 1959 s. 14; 91 of 1990 s. 5*)
- (3) No person shall obscure or deface any street name or building number.

## **32A. Carrying out of other works and provision of services**

In any case where under this Ordinance the Building Authority is authorized to carry out or cause to be carried out works (in this section referred to as *the principal works*), he may also carry out or cause to be carried out such other works, and provide or cause to be provided such services, as he considers necessary for

the carrying out of the principal works and may recover the costs thereof from the person liable for the costs of the principal works under this Ordinance.

*(Added 57 of 1987 s. 5)*

### **32B. Cost of abortive visit**

In any case where under this Ordinance the Building Authority is authorized to carry out or cause to be carried out works and access to the works is denied, refused or not available he may recover the cost of any abortive visit from the person liable for the cost of the works under this Ordinance had the works been carried out.

*(Added 42 of 1992 s. 5)*

## **33. Recovery of costs and surcharge by Building Authority**

*(Amended 16 of 2011 s. 21)*

(1) In any case where under this Ordinance the Building Authority is authorized to recover the cost of any inspection, investigation or works carried out by him or caused to be carried out by him or to recover the costs of services provided by him or caused to be provided by him or to recover the cost of any abortive visit made by him, the Building Authority may impose a surcharge of not exceeding 20% on the cost due and may certify under his hand the cost and surcharge due and names of the persons liable therefor, and may by such certificate apportion such cost and surcharge among such persons. *(Amended 57 of 1987 s. 6; 42 of 1992 s. 6; 24 of 2012 ss. 5 & 13)*

(2) Such cost may include—

(a) the cost of materials supplied by the Building Authority for the purpose of carrying out such inspection, investigation or works; and

(b) supervision charges.

- (3) A copy of the Building Authority's certificate shall be served upon each person affected thereby.
- (4) Interest at the rate of 10 per cent per annum from the expiry of 1 month from the date of such service shall be recoverable as part of such cost or surcharge.
- (5) The payment of such cost or surcharge by any person shall be without prejudice to his right to recover the same from any person liable to pay the expenses of the repair of, or of other building works in connexion with, any building or land.  
*(Amended 72 of 1980 s. 11)*
- (6) Without prejudice to any other remedy of the Building Authority for the recovery of such cost or surcharge, the same may be recovered as a debt due to the Government. *(Replaced 13 of 1966 Schedule. Amended 62 of 2000 s. 3)*
- (7) The writ of summons in connexion with such action shall be taken to have been duly served if it appears, to the satisfaction of the Court, that the writ was left at the defendant's residence or place of business, or in case the same is unknown, that it was left at the building or on the land in respect of which the claim is made. *(Amended 72 of 1980 s. 11)*
- (8) A certificate purporting to be under the hand of the Building Authority, made under the provisions of subsection (1), and setting forth that the cost or surcharge claimed is due or payable to the Building Authority and that the person sued is liable for the payment thereof, and specifying the nature and particulars of the claim shall be *prima facie* evidence of the facts certified therein and of the signature of the Building Authority thereto.
- (9) At any time before such costs or surcharge and any interest accrued thereon has been wholly recovered, a memorial of the certificate referred to in subsection (1) may be registered in the Land Registry against the title of any premises or land in

respect of which such cost or surcharge arose, and upon such registration the cost or surcharge and any interest accrued or thereafter accruing shall— *(Amended 8 of 1993 s. 2; 16 of 2011 s. 21)*

- (a) be recoverable by action in Court in accordance with the provisions of this section from any person who from such Land Registry register then or thereafter appears to be the owner of such premises or land: *(Amended 8 of 1993 s. 2)*

Provided that—

- (i) the amount recovered by virtue of this subsection shall not exceed the value of that person's interest in the premises or land charged; and
- (ii) where the amount so recovered is equal to the value of the premises or land the charge created under paragraph (b) shall become void; and
- (b) constitute a first charge on the said premises or land which shall give the Building Authority the same powers and remedies in respect thereof as if he were a mortgagee under a mortgage by deed in common form having power of sale and lease and of appointing a receiver: *(Amended 37 of 1961 s. 5)*

Provided that the charge shall be void and no liability shall accrue under this subsection against a bona fide purchaser or mortgagee of the premises or land for valuable consideration who, subsequent to the completion of the works specified in the certificate and before the registration of the memorial thereof, has acquired and registered an interest in the premises or land to be charged. *(Replaced 44 of 1959 s. 15. Amended 72 of 1980 s. 11)*

- (10) Upon the recovery of any sum under this section the Building Authority shall lodge in the Land Registry an appropriate

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memorial of satisfaction against any memorial lodged there by him under subsection (9). (*Amended 8 of 1993 s. 2*)

(*Amended 13 of 1966 Schedule; 16 of 2011 s. 21*)

**34. Disposal of materials resulting from works carried out by Building Authority**

Where the Building Authority has carried out or caused to be carried out works under this Ordinance he may dispose of any materials resulting from such work.

(*Added 23 of 1969 s. 8. Amended 72 of 1980 s. 12; 57 of 1987 s. 7*)

**35. Service of notices and orders**

(1) Any notice, order or certificate required to be served under this Ordinance may be served by serving a copy— (*Amended 16 of 2011 s. 22*)

- (a) personally; or
- (b) by registered post addressed to the last known place of business or residence of the person to be served; or
- (c) by leaving the same with an adult occupier of the premises or land to which the notice or order relates or by posting the same upon a conspicuous part of such premises or land: (*Amended 72 of 1980 s. 13*)

Provided that in addition to or in substitution for any such method of service the publication in the Gazette of any such notice or order together with the available particulars of the person to whom it is addressed shall be deemed to be good service.

(2) A certificate purporting to be signed by a person who states in that certificate that the person has effected service under subsection (1) is evidence of the facts stated in the certificate relating to that service. (*Added 16 of 2011 s. 22*)

**36.** *(Repealed 20 of 2008 s. 23)*

**36A.** *(Repealed 20 of 2008 s. 23)*

**36B.** *(Repealed 20 of 2008 s. 23)*

**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).

*(Added 20 of 2008 s. 24)*

**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.

*(Added 20 of 2008 s. 24)*

**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.

*(Added 20 of 2008 s. 24)*

**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.

*(Added 20 of 2008 s. 24)*

**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 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 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.

*(Added 20 of 2008 s. 24)*

### **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.

*(Added 20 of 2008 s. 24)*

### **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.

- (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.

*(Added 20 of 2008 s. 24)*

## **37. Limitation of public liability**

- (1) No liability shall rest upon Government or upon any public officer by reason of the fact that any building works are carried out in accordance with the provisions of this Ordinance or that such building works or the plans thereof or materials therefor are subject to inspection or approval by a public officer, nor shall anything in this Ordinance make it obligatory for the Building Authority to inspect any building, building works or materials or the site of any proposed building to ascertain that the provisions of this Ordinance are complied with or that plans, certificates, forms, reports,

notices and other documents submitted to him are accurate.  
*(Amended 16 of 2011 s. 23)*

- (2) No matter or thing done by the Building Authority or by any public officer acting under his direction shall if it were done bona fide for the purpose of executing this Ordinance subject him or such public officer personally to any action, liability, claim or demand whatsoever.
- (3) Nothing in this Ordinance contained shall exempt any person from any proceeding by way of mandamus, injunction, prohibition or other order unless it is expressly so enacted.

*(Amended 31 of 1966 s. 102)*

## 38. Regulations

- (1) The Secretary may by regulation provide for—  
*(Amended L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007; 20 of 2008 s. 25)*
  - (a) registration and control of—
    - (i) authorized persons;
    - (ii) registered structural engineers;
    - (iia) registered geotechnical engineers;  
*(Added 15 of 2004 s. 28)*
    - (iib) registered inspectors;  
*(Added 16 of 2011 s. 24)*
    - (iii) registered general building contractors;  
*(Amended 54 of 1996 s. 20)*
    - (iv)-(v)  
*(Repealed 43 of 1987 s. 44)*
    - (vi) registered specialist contractors;  
*(Replaced 52 of 1974 s. 10. Amended 54 of 1996 s. 20)*
    - (vii) registered minor works contractors;  
*(Added 20 of 2008 s. 25)*

- (aa) restoration to and removal from the register of any person referred to in paragraph (a); (*Added 20 of 2008 s. 25*)
- (b) the manner of making application for and granting of approval of plans of building works or street works, and the giving of consent to commence or carry out such works, including cases where it is desired— (*Amended 17 of 2018 s. 52*)
  - (i) to add to or alter building works or street works the commencement of which has already been consented to, or
  - (ii) to commence certain parts of building works or street works before other parts;
- (ba) the planning, design and construction of site formation works; (*Added 72 of 1980 s. 14*)
- (bb) the planning, design and carrying out of ground investigation in the scheduled areas; (*Added 41 of 1982 s. 9. Amended 52 of 1990 s. 7*)
- (c) planning and design of buildings including—
  - (i) streets;
  - (ii) projections;
  - (iii) heights, site coverage, plot ratio and open spaces including service lanes; (*Amended 23 of 1969 s. 9*)
  - (iv) lighting and ventilation;
  - (v) sanitation;
  - (vi) staircases and fire-escapes;
  - (vii) domestic buildings;
  - (viii) buildings for special uses including industrial buildings, places of public entertainment and schools;

- (ix) any sea-wall, breakwater, jetty, mole, quay, wharf or pier; (*Amended 6 of 1995 s. 4*)
- (x) exceptional structures;
- (xi) timber yards and hoardings; (*Amended 23 of 1969 s. 9; 43 of 1993 s. 8*)
- (xii) fire fighting equipment; (*Added 37 of 1961 s. 6. Amended 43 of 1993 s. 8; 39 of 2000 s. 5*)
- (xiii) matters relating to the installation of lifts and escalators; (*Added 43 of 1993 s. 8. Amended 39 of 2000 s. 5; 15 of 2004 s. 28*)
- (xiv) matters relating to the provision of access facilities for telecommunications and broadcasting services; and (*Added 39 of 2000 s. 5. Amended 15 of 2004 s. 28*)
- (xv) matters relating to the provision of emergency vehicular access; (*Added 15 of 2004 s. 28*)
- (d) the construction of buildings including—
  - (i) materials;
  - (ii) loads and stresses;
  - (iii) foundations, floors and sites;
  - (iv) walls and piers;
  - (v) roofs, flues and chimneys;
  - (vi) structural steel work, reinforced concrete, and timber;
  - (vii) fire-resisting construction;
  - (viii) retaining walls;
  - (ix) plumbing and drainage;

- (x) wells;
- (xi) matters relating to the installation of lifts and escalators; (*Amended 43 of 1993 s. 8; 15 of 2004 s. 28*)
- (xii) refuse chutes, refuse storage chambers, and floor space and facilities for material recovery and separation of refuse; and (*Replaced 39 of 2000 s. 5. Amended 15 of 2004 s. 28*)
- (xiii) matters relating to the provision of emergency vehicular access; (*Added 15 of 2004 s. 28*)
- (e) the supply of water to buildings for all purposes, including the connexion thereof to buildings and the arrangement, size, construction and type of piping therefor and the power of the Building Authority to require that the supply of water be obtained from a particular source or to prohibit or restrict the supply of water from any particular sources; (*Added 16 of 1966 s. 9*)
- (f) (*Repealed 43 of 1993 s. 8*)
- (g) the construction, inspection, testing and safe working of ventilating systems; (*Added 27 of 1964 s. 5*)
- (h) the testing of drainage works and matters ancillary thereto;
- (i) the demolition of buildings and the safety precautions to be taken in respect thereof; (*Added 37 of 1961 s. 6*)

- (ia) the design, construction, licensing, inspection, testing and maintenance of oil storage installations and matters connected therewith, including the imposition of restrictions and conditions relating to the use of such installations for the storage of petroleum products; prohibiting the use of any oil storage installation, requiring any petroleum products to be removed from any oil storage installation, the seizure, removal and detention of any petroleum products not removed from any oil storage installation as required, the power of entry, inspection and examination; and for the establishment of a Standing Advisory Committee to advise the Building Authority on such matters relating to oil storage installations as may be specified in the regulations; *(Added 16 of 1978 s. 3. Amended 5 of 1983 s. 3)*
- (ib) as regards the conservation of energy—
  - (i) requirements relating to the planning, design and construction of any building or buildings of a class or description specified in the regulations, including the furnishing of information regarding these matters;
  - (ii) as regards buildings complying with or required to comply with regulations under subparagraph (i), exemptions from specified requirements in any other regulation made under this subsection; *(Added 77 of 1994 s. 11)*
- (j) the granting of permits for and control of buildings required for a limited time or constructed of short-lived materials;
- (k) plans, notices and certificates to be delivered to the Building Authority;

- (ka) matters relating to minor works, including—
- (i) the designation of any building works as minor works for the purposes of the definition of ***minor works*** in section 2(1);
  - (ii) the classification of minor works into different classes, types or items;
  - (iii) the appointment of prescribed building professionals in respect of different classes, types or items of minor works; and
  - (iv) the appointment of prescribed registered contractors to carry out different classes, types or items of minor works; (*Added 20 of 2008 s. 25*)
- (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; (*Added 20 of 2008 s. 25*)
- (kc) matters relating to the enforcement of or other matters concerning the simplified requirements; (*Added 20 of 2008 s. 25*)

- (kd) 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 connected with any activity under this Ordinance, dealing with a contractor registered under this Ordinance; *(Added 20 of 2008 s. 25)*
- (ke) matters relating to section 39C, including matters relating to—
- (i) the appointment of persons including a registered minor works contractor to inspect any building or building works for the purposes of that section;
  - (ia) the prescription of a date in relation to any prescribed building or building works for the purposes of section 39C(1A)(a); *(Added 24 of 2012 s. 6)*
  - (ib) the prescription of the requirement for periodic compliance with the requirements in section 39C(2), (3) and (4) in respect of any prescribed building or building works for the purposes of section 39C(1A)(c); *(Added 24 of 2012 s. 6)*
  - (ic) the prescription of the details in relation to any prescribed building or building works specified in Schedule 8; *(Added 24 of 2012 s. 6)*

- (ii) the prescription of any building or building works for the purposes of the definition of ***prescribed building or building works*** in section 39C(6)(b); and
- (iii) any plans, certificates, notices or other documents that are required to be submitted or delivered to the Building Authority or other persons; (*Added 20 of 2008 s. 25*)
- (kf) the designation of any building works as designated exempted works for the purposes of section 41(3B); (*Added 20 of 2008 s. 25*)
- (kg) matters relating to a prescribed inspection or prescribed repair in respect of a building including—
  - (i) the scope, standard and requirements of a prescribed inspection or prescribed repair in respect of a building;
  - (ii) the requirements of the appointment of registered inspectors, qualified persons, registered general building contractors and registered minor works contractors for a prescribed inspection or prescribed repair;
  - (iii) the duties of registered inspectors, qualified persons, registered general building contractors and registered minor works contractors in relation to a prescribed inspection or prescribed repair;
  - (iv) the prescription of any exemption for the purposes of section 30D(3)(a); and
  - (v) the prescription of representatives of qualified persons for the purposes of section 30E(4); (*Added 16 of 2011 s. 24*)
- (l)-(m) (*Repealed 68 of 1993 s. 18*)

- (n) the better carrying into effect of the provisions of this Ordinance. (*Replaced 44 of 1959 s. 18*)
- (1AA) Without limiting the generality of subsection (1), the Secretary may by regulation provide for the registration of persons as registered minor works contractors in the provisional register (whether or not as supplemental or transitional arrangements). (*Added 20 of 2008 s. 25*)
- (1A) The Chief Executive in Council may by regulation provide for the imposition of fees in respect of any matter with regard to which provision is made in this Ordinance or in regulations made under this Ordinance. (*Added 68 of 1993 s. 18. Amended 62 of 2000 s. 3*)
- (1B) The Chief Executive in Council may by regulation provide for— (*Amended 62 of 2000 s. 3*)
- (a) the procedure as regards the exercise of the right of appeal conferred by section 44;
  - (b) the practice and procedure of an Appeal Tribunal constituted under section 48; and
  - (c) matters ancillary or incidental to those specified under paragraph (a) or (b). (*Added 77 of 1994 s. 11*)
- (1C) Regulations made under subsection (1)(ib) may provide that any requirement in such regulations applies to a building, any part of a building or parts of a building as are specified. (*Added 77 of 1994 s. 11*)
- (2) Regulations under this section may provide for the carrying out by the Building Authority of all building works required to be carried out therein, and for the recovery of the costs thereof from the person required to carry out such building works.

- (3) (a) Regulations under this section may provide that where the Building Authority issues permits thereunder he may—
- (i) endorse conditions on such permits;
  - (ii) cancel such permits for breaches thereof; and
  - (iii) require the permittee to deposit a sum not exceeding \$500 as security for the due compliance with such conditions.
- (b) Upon the breach of any such condition, any deposit required by this subsection shall upon application to a magistrate be declared by him to be forfeited to the Government. *(Amended 62 of 2000 s. 3)*
- (3A) The amount of fees provided for in regulations made under subsection (1A) in respect of the making of application for or granting of approval of plans of building works or street works may be fixed at levels which provide for the recovery of expenditure incurred or likely to be incurred generally by the Government in relation to such application or approval and need not be limited by reference to the administrative or other costs incurred or likely to be incurred in the processing of any individual submission of plans. *(Added 68 of 1993 s. 18)*
- (4) Regulations under this section may provide that a contravention of any specific provision thereof shall be an offence and may prescribe penalties therefor—
- (a) a fine not exceeding level 6;
  - (b) in the case of a continuing offence, a daily fine not exceeding \$5,000 for each day during which the offence continues; and
  - (c) imprisonment for a period not exceeding 2 years.
- (Replaced 39 of 2000 s. 5)*

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- (5) Regulations under this section shall be published once in the Gazette at least 3 weeks before coming into operation:

Provided that where the Secretary or the Chief Executive in Council, as the case may be, deems it expedient such publication may be dispensed with. (*Amended L.N. 330 of 1999; 62 of 2000 s. 3; L.N. 106 of 2002; L.N. 130 of 2007; 20 of 2008 s. 25*)

*(Amended 44 of 1959 s. 18; 68 of 1993 s. 18)*

## **39. Application of new regulations**

- (1) Any regulations made under this Ordinance may provide that where plans of building works or street works are submitted to the Building Authority within such period from the coming into operation of the regulations as may be prescribed therein, he may approve any such plans which comply with the provisions of the law before the coming into operation of such regulations and may give consent to the commencement of the works shown therein; and the provisions of subsection (2) shall apply to such works and to any building which may be erected or any street or access road which may be formed, constructed or laid out in consequence thereof.
- (2) Where at the date of the coming into operation of any regulations made under this Ordinance any building works or street works are being carried out or consent to their commencement has been given the provisions of the law prior to the coming into operation of such regulations shall apply to such works:

Provided that in the exercise of his powers under section 20 the Building Authority may require compliance with such regulations coming into operation since the giving of his consent to the commencement of the works in respect of which he is exercising such powers.

*(Added 44 of 1959 s. 19. Amended 43 of 1993 s. 9)*

### **39A. Technical memorandum**

- (1) The Secretary may issue a technical memorandum dealing with— *(Amended L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007; 20 of 2008 s. 26)*
- (a) the circumstances in which a supervision plan is not required for building works or street works;
  - (b) the classes of supervision that the Building Authority identifies as appropriate to various types of building works and street works having regard to the complexity of the building works or street works, the manpower required and level of supervision required for each of the classes of supervision;
  - (c) detailed supervision requirements for various types of building works and street works including the management structure required to ensure site safety, the manpower required for each element of the management structure, the qualifications and experience of the personnel involved and the specific tasks to be associated in each element of the management structure;
  - (d) the method statement of various types of building works and street works, the types of precautionary and protective measures required to be undertaken for the safety of the site, the workers and the public, and such other details relating to site safety as the Building Authority may consider necessary;
  - (e) the qualifications and experience required for technically competent persons to be appointed for supervisory work under supervision plans;
  - (f) the circumstances in which an authorized person, registered structural engineer, registered geotechnical

engineer, registered inspector, registered general building contractor, registered specialist contractor or registered minor works contractor is permitted to notify in retrospect for minor deviations from a supervision plan; (*Amended 15 of 2004 s. 29; 20 of 2008 s. 26; 16 of 2011 s. 25*)

- (g) the method and timing of notification of, and the amendment procedures for, a proposed or actual deviation from a supervision plan, including deviations caused by an emergency;
  - (h) the form and content of a supervision plan;
  - (i) the general responsibilities of the site supervision personnel for the various types of building works and street works;
  - (j) the procedure, timing and sequence for the submission of supervision plans.
- (2) The Secretary must publish a technical memorandum issued under this Ordinance in the Gazette and cause it to be laid on the table of the Legislative Council at the next sitting after publication.
- (3) Where the Secretary has caused a technical memorandum to be laid on the table of the Legislative Council, the Legislative Council may, by resolution passed at a sitting of the Legislative Council held before the expiry of a period of 28 days after the sitting at which it was laid, provide that the technical memorandum be amended in any manner consistent with the power to issue the technical memorandum.
- (4) If the period for passing a resolution would, but for this subsection, expire—
  - (a) after the end of a session of the Legislative Council or after a dissolution of the Legislative Council; but

- (b) on or before the day of the second sitting of the Legislative Council in the next following session of the Legislative Council,  
the period is deemed to extend to and expire on the day after that second sitting.
- (5) Before the expiry of the period referred to in subsection (3) or that period as extended by virtue of subsection (4), the Legislative Council may by resolution in relation to a technical memorandum specified therein—
- (a) in the case of the period referred to in subsection (3), extend that period to the first sitting of the Legislative Council held not earlier than the twenty-first day after the day of its expiry;
  - (b) in the case where the period referred to in subsection (3) has been extended by virtue of subsection (4), extend that period as so extended to the first sitting of the Legislative Council held not earlier than the twenty-first day after the day of the second sitting in that next following session. (*Replaced 8 of 2002 s. 7*)
- (6) A resolution passed by the Legislative Council under this section must be published in the Gazette not later than 14 days after the resolution is passed or within such further period as the Secretary may allow in any particular case.
- (7) A technical memorandum issued under subsection (1) is not subsidiary legislation.
- (8) In this section, *sitting* (立法會會議), when used to calculate time, means the day on which the sitting commences and only includes a sitting at which subsidiary legislation is included on the order paper. (*Amended 62 of 2000 s. 3*)
- (9) Unless the Secretary appoints a later date either in the memorandum or by notice in the Gazette, a technical memorandum commences to have effect—

- (a) if the Legislative Council does not pass a resolution amending the technical memorandum, upon the expiry of the period, or the period as extended, as the case may be, for passing an amending resolution; and
  - (b) if the Legislative Council passes a resolution amending the technical memorandum, at the beginning of the day of the publication in the Gazette of the resolution.
- (10) If the Secretary issues a technical memorandum under this Ordinance, he must make available a copy of the technical memorandum for inspection by the public free of charge at such offices of the Government as the Secretary directs during business hours.

*(Added 54 of 1996 s. 21)*

### **39B. Obstruction of owners' corporation**

- (1) A person who has been notified by an owners' corporation of a building that an order or notice has been served on the owners' corporation under any provision of this Ordinance in relation to any common parts of the building must not—*(Amended 16 of 2011 s. 26; 24 of 2012 s. 14)*
  - (a) obstruct a person employed or engaged by the owners' corporation in the carrying out of any inspection, investigation, works or other action that is required for the purpose of complying with the order or notice; or
  - (b) refuse to allow a person employed or engaged by the owners' corporation access to or the use of any premises, which is reasonably necessary for the carrying out of any inspection, investigation, works or other action that is required for the purpose of complying with the order or notice.*(Amended 16 of 2011 s. 26)*
- (1A) A person who has been notified by an owners' corporation of a building that an order or notice has been served on the

owners' corporation under any provision of this Ordinance in relation to any common parts of the building must not refuse to contribute to the cost of the inspection, investigation, works or other action that is required for the purpose of complying with the order or notice. (*Added 16 of 2011 s. 26. Amended 24 of 2012 s. 14*)

- (2) In this section, **owners' corporation** (業主立案法團) means a corporation registered under section 8 of the Building Management Ordinance (Cap. 344). (*Replaced 16 of 2011 s. 26*)

*(Added 15 of 2004 s. 30)*

*(Format changes—E.R. 2 of 2012)*

**39C. Building Authority must not serve order under section 24 or notice under section 24C**

*(Amended 24 of 2012 s. 7)*

- (1) Despite sections 24 and 24C, the Building Authority must not serve an order under section 24 or a notice under section 24C in respect of a prescribed building or building works on the ground that the building or building works have been completed or carried out in contravention of section 14(1), if—
- (a) the building or building works were completed or carried out before 31 December 2010; and
  - (b) with respect to the building or building works, the requirements in subsections (2), (3) and (4) have been complied with. (*Replaced 24 of 2012 s. 7*)
- (1A) Despite sections 24 and 24C, the Building Authority must not serve an order under section 24 or a notice under section 24C in respect of a prescribed building or building works on the ground that the building or building works have been

completed or carried out in contravention of section 14(1) or not in compliance with the simplified requirements, if—

- (a) the building or building works were completed or carried out before a date prescribed in the Minor Works Regulation in relation to the prescribed building or building works;
  - (b) with respect to the building or building works, the requirements in subsections (2), (3) and (4) have been complied with; and
  - (c) with respect to the building or building works, if periodic compliance with those requirements is required by the Minor Works Regulation, those requirements are complied with in accordance with the Minor Works Regulation. *(Added 24 of 2012 s. 7)*
- (2) An authorized person, a registered structural engineer, a registered inspector, a registered general building contractor, a registered specialist contractor or a registered minor works contractor as required by the Minor Works Regulation is to be appointed to inspect the prescribed building or building works. *(Amended 16 of 2011 s. 27; 24 of 2012 s. 7)*
- (3) The person appointed under subsection (2) is to submit or deliver to the Building Authority or other persons prescribed plans, certificates, notices and other documents as required by the Minor Works Regulation. *(Amended 24 of 2012 s. 7)*
- (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.
- (5) Nothing in this section affects the power of the Building Authority to serve an order under section 24 or a notice under

section 24C on the grounds other than those referred to in subsection (1) or (1A). (*Amended 24 of 2012 s. 7*)

(6) In this section—

- (a) (*Repealed 24 of 2012 s. 7*)
- (aa) **Minor Works Regulation** (《小型工程規例》) means the Building (Minor Works) Regulation (Cap. 123 sub. leg. N); (*Added 24 of 2012 s. 7*)
- (b) **prescribed building or building works** (訂明建築物或建筑工程)—
  - (i) in relation to subsection (1), means a building or building works prescribed in the Minor Works Regulation as prescribed building or building works;
  - (ii) in relation to subsection (1A), means a building or building works specified in Schedule 8; and
  - (iii) in relation to subsection (2) or (4), means a building or building works falling within subparagraph (i) or (ii). (*Replaced 24 of 2012 s. 7*)

(*Added 20 of 2008 s. 27*)

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## Part 4

### Offences

#### **40. Offences**

- (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. (*Replaced 20 of 2008 s. 28*)
- (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. (*Added 20 of 2008 s. 28*)
- (1) Any person who contravenes section 21(1) shall be guilty of an offence and shall be liable on conviction— (*Amended 15 of 2004 s. 31*)
- (a) to a fine at level 6 and to imprisonment for 2 years; and
  - (b) to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued. (*Replaced 24 of 1979 s. 3*)
- (1A) Any person who contravenes section 22(2)(a), 24B(14) or 27(5)(a) shall be guilty of an offence and shall be liable on conviction to a fine at level 2 and to imprisonment for 6 months. (*Added 24 of 1979 s. 3. Amended 91 of 1990 s. 6*)
- (1B) Any person who—
- (a) contravenes section 30(1) or 31(1); or

(b) without reasonable excuse, fails to comply with an order served on him under section 19(2), 20(2), 22(3), 23, 25(2), 26(1), 26A(1) or (3), 27A(1) or (2B), 27C(1) or (4), 28(2)(a) or (3) or (5), 29(2)(a), 29A(2), 30(3) or 31(2)(a), *(Amended 77 of 1992 s. 4; 55 of 1996 s. 9; 15 of 2004 s. 31)*

shall be guilty of an offence and shall be liable on conviction—

- (i) to a fine at level 5 and to imprisonment for 1 year; and
- (ii) in the case of an offence consisting of a failure to comply with an order served on him under section 23, 25(2), 26(1), 26A(1) or (3), 27A(1) or (2B), 27C(1) or (4) or 28(3) or (5) to a further fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the failure to comply with the order has continued.  
*(Added 24 of 1979 s. 3. Amended 72 of 1980 s. 15; 77 of 1992 s. 4; 55 of 1996 s. 9; 15 of 2004 s. 31)*

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

- (a) to a fine of \$200,000 and to imprisonment for 1 year; and
- (b) to a fine of \$20,000 for each day during which it is proved to the satisfaction of the court that the offence has continued. *(Added 15 of 2004 s. 31)*

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

- (a) to a fine at level 5 and to imprisonment for 3 months; and

- (b) to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued. *(Added 20 of 2008 s. 28)*
- (1BC) Any person who, without reasonable excuse, fails to comply with a notice served on the person under section 30B(3), (4), (5) or (6) commits an offence and is liable on conviction—  
(a) to a fine at level 5 and to imprisonment for 1 year; and  
(b) to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued. *(Added 16 of 2011 s. 28)*
- (1BD) Any person who, without reasonable excuse, fails to comply with a notice served on the person under section 30C(3) or (4) commits an offence and is, subject to subsection (1BE), liable on conviction—  
(a) to a fine at level 4 and to imprisonment for 3 months; and  
(b) to a fine of \$2,000 for each day during which it is proved to the satisfaction of the court that the offence has continued. *(Added 16 of 2011 s. 28)*
- (1BE) Before taking court proceedings against a person for an offence under subsection (1BD), the Building Authority must serve on the person a penalty notice described in Schedule 7. *(Added 16 of 2011 s. 28)*
- (1BF) Schedule 7 has effect in relation to a penalty notice. *(Added 16 of 2011 s. 28)*
- (1BG) The Chief Executive in Council may, by notice published in the Gazette, amend Schedule 7. *(Added 16 of 2011 s. 28)*
- (1C) Any person who—  
(a) without reasonable excuse, fails to comply with an order served on him under section 32(2); or

- (b) contravenes section 24B(8) or 32(3), (*Amended 91 of 1990 s. 6*)

shall be guilty of an offence and shall be liable on conviction to a fine at level 1 and to imprisonment for 6 months. (*Added 24 of 1979 s. 3*)

- (1D) Any owner who—

- (a) fails to serve upon all former occupiers who have notified him of their addresses, the copies required to be served under section 27(10)(a); or
- (b) fails to serve upon the Building Authority the certificate required to be served under section 27(10)(b),

shall be guilty of an offence and shall be liable on conviction to a fine at level 3 and to imprisonment for 6 months. (*Added 45 of 1985 s. 2*)

- (1E) Any person who contravenes section 24B(6) shall be guilty of an offence and shall be liable on conviction to a fine at level 5 and to imprisonment for one year and to a further fine of \$5,000 for each day during which the offence continues. (*Added 91 of 1990 s. 6*)

- (2) Any person who—

- (a) fails to give any notice required to be given under section 25(1); or
- (b) contravenes any condition of a permit granted by the Building Authority under section 42,

shall be guilty of an offence and shall, without prejudice to any other penalty, be liable on conviction to a fine at level 6 and to imprisonment for 2 years. (*Replaced 39 of 2000 s. 6*)

- (2AAA) Any person who obstructs the Building Authority, any officer authorized by him or any other public officer, in the exercise of his power under this Ordinance, shall be guilty of an offence and shall, without prejudice to any other penalty, be liable on conviction to a fine at level 3 and to imprisonment for 6 months. (*Added 39 of 2000 s. 6*)
- (2A) Any person for whom any prescribed inspection or building works or street works are being carried out and any authorized person, registered structural engineer, registered geotechnical engineer, registered inspector, qualified person, registered general building contractor, registered specialist contractor or registered minor works contractor directly concerned with any such inspection or works who— (*Amended 43 of 1993 s. 10; 54 of 1996 s. 22; 15 of 2004 s. 31; 20 of 2008 s. 28; 16 of 2011 s. 28*)
- (a) permits or authorizes to be incorporated in or used in the carrying out of any such inspection or works any materials which— (*Amended 16 of 2011 s. 28*)
    - (i) are defective or do not comply with the provisions of this Ordinance;
    - (ii) have not been mixed, prepared, applied, used, erected, constructed, placed or fixed in the manner required for such materials under this Ordinance;
  - (b) diverges or deviates in any material way from any work shown in a plan approved by the Building Authority under this Ordinance;
  - (ba) diverges or deviates in any material way from any works shown in a plan relating to minor works that is required to be submitted to the Building Authority under the simplified requirements; or (*Added 20 of 2008 s. 28*)

- (c) knowingly misrepresents a material fact in any plan, certificate, form, report, notice or other document given to the Building Authority under this Ordinance, *(Replaced 24 of 1979 s. 3. Amended 16 of 2011 s. 28)* shall be guilty of an offence and shall be liable on conviction— *(Amended 20 of 2008 s. 28)*
- (d) in the case of a prescribed inspection (other than a prescribed inspection in respect of a window in a building) or building works (other than minor works) or street works, to a fine of \$1,000,000 and to imprisonment for 3 years; or *(Amended 16 of 2011 s. 28)*
- (e) in the case of a prescribed inspection in respect of a window in a building or minor works, to a fine of \$500,000 and to imprisonment for 18 months. *(Amended 24 of 1979 s. 3; 15 of 2004 s. 31; 16 of 2011 s. 28)*
- (2AA) Any authorized person, registered structural engineer or registered geotechnical engineer who contravenes section 4(3)(b), or any registered general building contractor or registered specialist contractor who contravenes section 9(5)(b) or (6)(b), shall be guilty of an offence and shall be liable on conviction to a fine of \$250,000: *(Amended 54 of 1996 s. 22; 39 of 2000 s. 6; 15 of 2004 s. 31)*
- Provided that it shall be a defence in any prosecution for a contravention of any section referred to in this subsection for the person charged to prove to the satisfaction of the court that he did not know, nor could reasonably have discovered, the contravention referred to in the charge. *(Added 24 of 1979 s. 3)*

- (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. *(Added 20 of 2008 s. 28)*
- (2AAAB) It is a defence in any prosecution for a contravention of any section referred to in subsection (2AAAA) for the person charged to prove that he had no knowledge of, and could not have reasonably discovered, the contravention referred to in the charge. *(Added 20 of 2008 s. 28)*
- (2AAAC) Any person who contravenes an order made by a disciplinary board under section 7(2)(bb), 7(2)(d), 13(4)(d) or 13(4)(e) shall be guilty of an offence and shall be liable on conviction— *(Amended 16 of 2011 s. 28)*
- (a) to a fine at level 6 and to imprisonment for 6 months; and
  - (b) to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued. *(Added 20 of 2008 s. 28)*
- (2AB) Any person (whether or not an authorized person, a registered structural engineer, a registered geotechnical engineer, a registered general building contractor, a registered specialist contractor or a registered minor works contractor) directly concerned with any building works or street works set out in items 1, 2, 3, 4, 5 and 6 of Column A in the table to section 17(1) who contravenes any condition imposed, or fails to comply with any requirement of an order in writing, under that section in respect of such building works or street works, or the plans thereof, shall be guilty of an offence and shall be liable on conviction— *(Amended 20 of 2008 s. 28)*

- (a) in the case of building works (other than minor works) or street works, to a fine of \$150,000 and to imprisonment for 1 year; or
  - (b) in the case of minor works, to a fine of \$35,000 and to imprisonment for 3 months. *(Added 72 of 1980 s. 15. Amended 54 of 1996 s. 22; 15 of 2004 s. 31)*
- (2AC) Any person (whether or not an authorized person, a registered structural engineer, a registered geotechnical engineer, a registered general building contractor, a registered specialist contractor or a registered minor works contractor) directly concerned with any site formation works, piling works, excavation works or foundation works who contravenes any condition imposed under item 7 in the table to section 17(1) in respect of such works, or the plans thereof, shall be guilty of an offence and shall be liable on conviction— *(Amended 20 of 2008 s. 28)*
- (a) in the case of site formation works, piling works, excavation works or foundation works (other than minor works), to a fine of \$750,000 and to imprisonment for 3 years; or
  - (b) in the case of site formation works, excavation works or foundation works that are minor works, to a fine of \$350,000 and to imprisonment for 18 months. *(Added 72 of 1980 s. 15. Amended 54 of 1996 s. 22; 15 of 2004 s. 31)*
- (2AD) Any registered inspector who contravenes section 30D(3)(a), or any qualified person who contravenes section 30E(3)(a), or any representative of a qualified person who contravenes section 30E(4)(a), commits an offence and is liable on conviction to a fine of \$250,000. *(Added 16 of 2011 s. 28)*

- (2AE) Any registered inspector who contravenes section 30D(4)(a), or any qualified person who contravenes section 30E(5)(a), commits an offence and is liable on conviction—
- (a) in the case of supervision of a prescribed repair (other than minor works), to a fine of \$250,000; or
  - (b) in the case of supervision of a prescribed repair that is minor works, to a fine of \$150,000. *(Added 16 of 2011 s. 28)*
- (2AF) Any registered inspector, qualified person, registered general building contractor or registered minor works contractor who contravenes section 30D(4)(c), 30E(5)(c) or 30F, as the case may be, commits an offence and is liable on conviction—
- (a) in the case of a prescribed repair (other than minor works), to a fine of \$1,000,000 and to imprisonment for 3 years; or
  - (b) in the case of a prescribed repair that is minor works, to a fine of \$500,000 and to imprisonment for 18 months. *(Added 16 of 2011 s. 28)*
- (2B) Any person (whether or not an authorized person, a registered structural engineer, a registered geotechnical engineer, a registered inspector, a qualified person, a registered general building contractor, a registered specialist contractor or a registered minor works contractor) directly concerned with any prescribed inspection, site formation works, piling works, foundation works or other form of building works who— *(Amended 54 of 1996 s. 22; 15 of 2004 s. 31; 20 of 2008 s. 28; 16 of 2011 s. 28)*
- (a) carries out or has carried out such inspection or works, or authorizes or permits or has authorized or permitted such inspection or works to be carried out, in such manner that it causes injury to any person or damage to any property; or

- (b) carries out or has carried out such inspection or works, or authorizes or permits or has authorized or permitted such inspection or works to be carried out, in such manner as is likely to cause a risk of injury to any person or damage to any property,  
shall be guilty of an offence and shall be liable on conviction— *(Amended 20 of 2008 s. 28)*
- (c) in the case of a prescribed inspection (other than a prescribed inspection in respect of a window in a building), or site formation works, piling works, foundation works or other form of building works (other than minor works), to a fine of \$1,000,000 and to imprisonment for 3 years; or
- (d) in the case of a prescribed inspection in respect of a window in a building, or site formation works, foundation works or other form of building works that are minor works, to a fine of \$500,000 and to imprisonment for 18 months. *(Replaced 24 of 1979 s. 3. Amended 15 of 2004 s. 31; 16 of 2011 s. 28)*
- (2C) Any person who, without reasonable excuse, fails to comply with an order served on him under section 24A, shall be guilty of an offence and shall be liable on conviction—
- (a) in the case of building works (other than minor works) or street works—
- (i) to a fine of \$1,000,000 and to imprisonment for 3 years; and
- (ii) to a fine of \$200,000 for each day during which it is proved to the satisfaction of the court that the offence has continued; or *(Replaced 20 of 2008 s. 28)*
- (b) in the case of minor works—

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- (i) to a fine of \$500,000 and to imprisonment for 18 months; and
  - (ii) to a fine of \$100,000 for each day during which it is proved to the satisfaction of the court that the offence has continued. *(Replaced 20 of 2008 s. 28)*

*(Added 71 of 1972 s. 5. Amended 24 of 1979 s. 3; 15 of 2004 s. 31)*

- (2D) Any person who knowingly misrepresents a material fact in any report submitted to the Building Authority under section 27C(2)(c) shall be guilty of an offence and shall be liable on conviction to a fine of \$250,000 and to imprisonment for 3 years. *(Added 55 of 1996 s. 9)*
- (2E) Where a registered minor works contractor or a registered specialist contractor certifies or carries out minor works belonging to a class, type or item for which he is not registered, he shall be guilty of an offence and shall be liable on conviction—
  - (a) to a fine at level 6 and to imprisonment for 6 months; and
  - (b) to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued. *(Added 20 of 2008 s. 28)*
- (2F) Any person other than a prescribed building professional, who, without reasonable excuse, certifies minor works shall be guilty of an offence and shall be liable on conviction—
  - (a) to a fine at level 6 and to imprisonment for 6 months; and
  - (b) to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued. *(Added 20 of 2008 s. 28)*

- (2G) Any person other than a prescribed registered contractor or a person acting under the supervision of any such contractor, who, without reasonable excuse, certifies or carries out minor works shall be guilty of an offence and shall be liable on conviction—
- (a) to a fine at level 6 and to imprisonment for 6 months; and
  - (b) to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued. *(Added 20 of 2008 s. 28)*
- (2H) Any person other than a registered inspector who, without reasonable excuse, certifies a prescribed inspection (other than a prescribed inspection in respect of a window in a building), or certifies or supervises a prescribed repair (other than a prescribed repair in respect of a window in a building), in respect of a building commits an offence and is liable on conviction—
- (a) to a fine at level 6 and to imprisonment for 6 months; and
  - (b) to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued. *(Added 16 of 2011 s. 28)*
- (2I) Any person other than a qualified person who, without reasonable excuse, certifies a prescribed inspection or certifies or supervises a prescribed repair, in respect of a window in a building commits an offence and is liable on conviction—
- (a) to a fine at level 6 and to imprisonment for 6 months; and
  - (b) to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued. *(Added 16 of 2011 s. 28)*

- (3) Any person who unlawfully and maliciously removes, pulls down, demolishes or damages, or in any way whatsoever interferes with, any shoring erected for a building pursuant to section 18(1) or any groundwater drainage works carried out pursuant to section 28A shall be guilty of an offence and shall be liable to a fine at level 5 and to imprisonment for 1 year. *(Added 27 of 1964 s. 6. Amended 24 of 1979 s. 3; 41 of 1982 s. 10)*
- (3A) Any person who without reasonable excuse fails to comply with a requirement imposed under section 28A to maintain groundwater drainage works shall be guilty of an offence and shall be liable to a fine at level 5 and imprisonment for 1 year and to a further fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the failure to comply with the requirement has continued. *(Added 41 of 1982 s. 10)*
- (4) Any person who, after a copy of a warrant issued under section 18(6)(c) has been posted in accordance with section 18(6)(d), obstructs the entry to the building specified in such warrant of any police officer or other person authorized by such warrant to enter the same shall be guilty of an offence and shall be liable to a fine at level 5 and to imprisonment for 1 year. *(Added 40 of 1965 s. 7. Amended 24 of 1979 s. 3)*
- (4A) Any person who, after a copy of warrant issued under section 28C has been posted under subsection (2) of that section, obstructs the entry upon the land specified in the warrant by any police officer or other person authorized by the warrant to enter upon the land or obstructs the carrying out or maintenance of any groundwater drainage works by any person authorized by the warrant to carry out or maintain the works shall be guilty of an offence and shall be liable to a fine at level 5 and to imprisonment for 1 year. *(Added 41 of 1982 s. 10)*

- (4B) Any person who without reasonable excuse contravenes section 39B(1) shall be guilty of an offence and shall be liable on conviction to a fine at level 3 and to imprisonment for 6 months. *(Added 15 of 2004 s. 31)*
- (4C) Any person who without reasonable excuse contravenes section 39B(1A) commits an offence and is liable on conviction to a fine at level 4. *(Added 16 of 2011 s. 28)*
- (5) Any person, being a person directly concerned in or with any building works or street works, who permits the commission of any offence specified in this section shall be deemed to be guilty of such offence and shall be liable to the penalty prescribed therefor. *(Replaced 44 of 1959 s. 20. Amended 43 of 1993 s. 10)*
- (6) Where an offence under this Ordinance committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect or default on the part of, any director, manager, or other officer concerned in the management of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, is guilty of the offence. *(Replaced 6 of 1995 s. 5)*
- (6A) Where an offence under this Ordinance committed by a partner in a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect or default on the part of, any other partner of the partnership, that other partner is also guilty of the offence. *(Added 6 of 1995 s. 5)*
- (7) Where anything is required to be done by the owner of a building, and by virtue of section 2 there is more than one owner of such building, it shall be a defence to any charge of failing to do that thing—

- (a) that such thing was done by another owner of the building; or
  - (b) that any notice or order in respect of such thing required under this Ordinance to be served on the owner was served on another owner of the building and not on the person charged.
- (7A) Where anything is required to be done by an owner of land or by a person referred to in section 27A(1), it shall be a defence to any charge of failing to do that thing that any notice or order in respect of such thing required under this Ordinance to be served on the owner or on such person was served on another owner of the land or on another such person and not on the person charged. *(Added 72 of 1980 s. 15)*
- (8) Any prosecution under the provisions of this Ordinance may be commenced within 12 months of the commission of the offence or within 12 months of the same being discovered by or coming to the notice of the Building Authority. *(Added 44 of 1959 s. 20. Amended 68 of 1993 s. 19)*

*(Amended 20 of 2008 s. 28)*

*(Format changes—E.R. 2 of 2012)*

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## Part 5

### Exemptions

#### 41. Exemptions

- (1) The following shall be exempt from the provisions of this Ordinance—
- (a) buildings belonging to the Government;
  - (aa) subject to section 18(2) and (3) of the Housing Ordinance (Cap. 283), buildings upon any land vested in the Housing Authority or over which the Housing Authority has control and management; *(Added 23 of 1973 s. 36. Amended 33 of 1978 s. 13)*
  - (b) buildings upon any land vested in any person on behalf of the Hong Kong Garrison; *(Amended 2 of 2012 s. 3)*
  - (ba) any land vested in the Housing Authority or in any person on behalf of the Hong Kong Garrison, and any unleased land within the meaning of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) other than such unleased land in respect of which a person is, under the terms of a Government lease, under an obligation to maintain; *(Added 72 of 1980 s. 16. Amended 2 of 2012 s. 3)*
  - (c) any street or access road vested in and maintained by the Government; *(Added 44 of 1959 s. 21)*

Provided that the provisions of this Ordinance relating to projections over or upon any portion of any street whether or not on land held under lease from the Government and to hoardings shall apply to all buildings. *(Amended 23 of 1969 s. 10; 29 of 1998 s. 26)*

- (1A) Nothing in subsection (1) shall exempt an owner of any building that is not a building referred to in paragraph (a), (aa) or (b) of that subsection from the operation of section 27C merely by reason of the fact that any water pipe, drain or sewer of the building is laid in, on or under—
- (a) any land vested in the Housing Authority or in any person on behalf of the Hong Kong Garrison; (*Amended 2 of 2012 s. 3*)
  - (b) any unleased land within the meaning of the Land (Miscellaneous Provisions) Ordinance (Cap. 28); or (*Amended 29 of 1998 s. 26*)
  - (c) any street or access road vested in and maintained by the Government. (*Added 55 of 1996 s. 10. Amended 29 of 1998 s. 26*)
- (2) Save as otherwise provided, no alteration shall be required to any existing building, private street or access road erected or constructed in accordance with the laws of Hong Kong. (*Replaced 44 of 1959 s. 21. Amended 43 of 1993 s. 11; 62 of 2000 s. 3*)
- (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. (*Replaced 20 of 2008 s. 29*)
- (3A) (*Repealed 20 of 2008 s. 29*)
- (3B) Designated exempted works that are prescribed in the regulations are exempt from sections 4, 9, 9AA, 14(1) and 21. (*Added 20 of 2008 s. 29*)
- (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 Schedule 5. *(Added 20 of 2008 s. 29)*
- (3D) Nothing in subsections (3), (3B) and (3C) permits any building works or drainage works to be carried out in contravention of any regulations. *(Added 20 of 2008 s. 29)*
- (4) The provisions of this Ordinance shall not apply to any temporary building to be kept or used as a place of public entertainment. *(Added 7 of 1970 s. 7)*

*(Amended E.R. 2 of 2012)*

## 42. Building Authority's powers of exemption

- (1) Where in the opinion of the Building Authority special circumstances render it desirable he may, on receipt of an application therefor and upon payment of the prescribed fee, permit by notice in writing modifications of the provisions of this Ordinance. *(Amended 44 of 1959 s. 22; 68 of 1993 s. 20)*
- (2) Every application for an exemption under this section shall be in the specified form, and shall be considered on its own merits by the Building Authority who shall not be required to

take account of exemptions granted in the past. (*Amended 44 of 1959 s. 22; 68 of 1993 s. 20*)

- (3) A permit granted under this section may contain such conditions as the Building Authority shall deem necessary.
  - (4) No such permit shall be granted to the prejudice of the standard of structural stability and public health established from time to time by regulations.
  - (5) This section shall not apply to section 14. (*Replaced 44 of 1959 s. 22*)
  - (6) The breach of or failure to perform or to consent to any condition attached to a modification or exemption granted under this section shall render such modification or exemption invalid, and thereupon the purported grant of such modification or exemption shall be no defence to any proceedings for non-compliance with the provisions of this Ordinance.
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## Part 6

### Appeals

(*Part 6 replaced 77 of 1994 s. 12*)

#### 43. Interpretation

(1) In this Part—

**Appeal Tribunal** (上訴審裁小組) in relation to an appeal means the tribunal constituted under section 48 to hear and determine that appeal;

**Chairman** (主席) in relation to an Appeal Tribunal means the person appointed as its chairman under section 48(1);

**functions** (職能) includes powers and duties;

**notice of appeal** (上訴通知) means a notice of appeal given under section 47;

**Secretary to the Appeal Tribunal** (上訴審裁小組秘書) means the person appointed as such under section 46(2)(a).

(2) Any reference in this Part to the performance of a function includes the exercise of a power or discharge of a duty.

#### 44. Appeals from decisions of Building Authority

(1) A person aggrieved by any decision made by the Building Authority in the exercise of a discretion conferred on him under this Ordinance may, except where this Ordinance provides otherwise, appeal from that decision in accordance with this Part and regulations made under section 38(1B).

(2) If—

(a) a decision appealed from under subsection (1) requires the carrying out of works; and

- (b) a notice of appeal as regards that decision is given under section 47,

subject to subsection (3), with effect from the day the notice is so given, the Building Authority shall neither enforce nor permit the enforcement of such decision, until the appeal is disposed of or unless it is withdrawn or abandoned.

- (3) The Building Authority may enforce a decision referred to in subsection (2) or permit its enforcement where he is of the opinion that an emergency exists and that having regard to that emergency such enforcement is necessary and serves a notice on the appellant stating that due to an emergency the enforcement of the decision and the carrying out of works or other action is necessary.
- (4) The decision of the Building Authority that an emergency exists for the purposes of subsection (3) shall not be subject to an appeal under section 44.

#### **45. Appeal Tribunal Panel**

- (1) There shall be a panel to be known as the Appeal Tribunal Panel.
- (2) The Chief Executive shall appoint to the Appeal Tribunal Panel—
- (a) such persons as he considers suitable to serve as members of an Appeal Tribunal constituted under section 48; and
  - (b) persons with the qualifications referred to in section 48(2) to serve as Chairmen.
- (3) Each appointment under subsection (2) shall be for a period which shall not exceed 3 years and which shall be determined by the Chief Executive at the time of the appointment.

- (4) A member of the Appeal Tribunal Panel may resign his office by giving notice in writing to the Chief Executive.
- (5) A person who ceases to be a member of the Appeal Tribunal Panel shall be eligible for reappointment to that panel.
- (6) A notice of any appointment under this section shall be published in the Gazette.
- (7) The Chief Executive may by notice in writing remove from office any member of the Appeal Tribunal Panel whom he considers to be unsuitable to hold office as such member.

*(Amended 62 of 2000 s. 3)*

#### **46. Secretary to the Appeal Tribunal**

- (1) There shall be a Secretary to the Appeal Tribunal for the purpose of providing administrative services to an Appeal Tribunal.
- (2) The Secretary to the Appeal Tribunal shall be—
  - (a) appointed by the Secretary; (*Amended L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007; 16 of 2011 s. 29*)
  - (b) a public officer; and
  - (c) a person other than a member of the Appeal Tribunal Panel.

#### **47. Notice of appeal**

A person exercising the right of appeal conferred by section 44 shall give notice of appeal in the prescribed manner, appealing from the relevant decision, to the Secretary to the Appeal Tribunal, to be received by him not later than 21 days after the date notification of the decision is sent to him.

## 48. Appeal Tribunal

- (1) Where a notice of appeal is given under section 47, the Chief Executive shall appoint, from the Appeal Tribunal Panel, a tribunal consisting of a Chairman and not less than 2 members, for the purpose of hearing and determining the appeal to which the notice relates. (*Amended 62 of 2000 s. 3*)
- (2) The Chairman shall be a person who is qualified for appointment as a District Judge under section 5 of the District Court Ordinance (Cap. 336).
- (3) The majority of the persons consisting the Appeal Tribunal shall be persons other than public officers.
- (4) For the avoidance of doubt it is declared that where a public officer is a Chairman or a member of the Appeal Tribunal he shall, as regards the performance of his functions as such Chairman or member—
  - (a) act in his personal capacity only; and
  - (b) not be subject to any direction to which he might be subject in his capacity as a public officer.
- (5) The Chairman or any member of the Appeal Tribunal, who is not a public officer shall be paid such remuneration at such rate as the Chief Executive may determine. (*Amended 62 of 2000 s. 3*)

## 49. Preliminary hearing

- (1) The Appeal Tribunal may, in any case where it considers it appropriate to do so, hold a preliminary hearing to determine whether good cause has been shown for holding a full hearing.

- (2) If the Appeal Tribunal determines that good cause has not been shown for holding a full hearing it shall make an order dismissing the appeal but shall otherwise hold a full hearing.

## 50. Determination of appeal

- (1) The following shall apply in relation to the hearing and determination of an appeal or a preliminary hearing held under section 49—
- (a) every question shall be determined by the opinion of the majority of the members of the Appeal Tribunal;
  - (b) where there is an equality of votes, the Chairman shall have a casting vote;
  - (c) the Appeal Tribunal may—
    - (i) receive and consider any oral, documentary or other evidence, (including any written statement), whether on oath, affirmation or otherwise, and whether or not it would be admissible in evidence in proceedings in a court;
    - (ii) by summons issued in the prescribed manner, require any person to attend before it at any hearing to give evidence or to produce any document;
    - (iii) administer oaths or affirmations;
    - (iv) examine on oath, affirmation or otherwise any person attending before it and require such person to answer any question put by or with the consent of the Tribunal.
- (2) In determining an appeal, the Appeal Tribunal may make an order confirming, varying or reversing the decision that is appealed against or substituting therefor such other decision or make such other order as it thinks fit.

## **51. Power to award costs**

- (1) Upon making an order under section 49(2) or 50(2) the Appeal Tribunal may make such order as to costs as it thinks fit.
- (2) Where there is more than one appellant, the Appeal Tribunal may apportion among them, the costs (if any) ordered against them.
- (3) The Appeal Tribunal shall not award any compensation or make an order for any other payment, other than an order for costs referred to in subsection (1).
- (4) Where an order for costs is made against the appellant the amount of the costs may be recovered by the Building Authority and the Building Authority shall cause a copy of the order to be served on the appellant.
- (5) Section 33 (except subsections (1), (2), (3), (5) and (8) thereof) shall apply as regards any such order for costs as if the references therein to a certificate of the Building Authority and costs certified by the Building Authority were references to an order for costs referred to in subsection (1) and the amount of the costs payable under such order, respectively.
- (6) Any costs awarded against the Building Authority under this section shall be paid out of the general revenue.

## **52. Representation**

The following shall apply as regards appearance before the Appeal Tribunal at a hearing of an appeal (including a preliminary hearing held under section 49)—

- (a) a party (whether the Building Authority or any other party) may—
  - (i) be present and make representations;

- (ii) be represented either by counsel or a solicitor, or with the approval of the Chairman, by any other person authorized for the purpose by the party concerned in writing;
- (b) the Building Authority may be represented by a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87).

### **53. Inspection**

- (1) The Appeal Tribunal may, for the purpose of determining an appeal at any reasonable time—
  - (a) enter and inspect any land or premises it considers relevant for the purposes of the appeal; and
  - (b) make any opening on such land or premises or take such samples as it considers necessary.
- (2) The Appeal Tribunal may, as regards any appeal, direct a public officer to do anything which the Appeal Tribunal may do under subsection (1).
- (3) A public officer directed under subsection (2) may enter any land or premises which the Appeal Tribunal considers relevant for the purposes of an appeal and remove anything obstructing—
  - (a) his access to or inspection of the land or premises and make such openings or take such samples as the Appeal Tribunal considers necessary for the purposes of the appeal; or
  - (b) the access of the Appeal Tribunal to such land or premises for the purposes of subsection (1).

### **53A. Immunity**

- (1) The Chairman or a member of an Appeal Tribunal performing any function under or pursuant to this Part shall have the same privileges and immunities a judge of the Court of First Instance has in relation to civil proceedings in that court.
- (2) A party to any hearing of an appeal (including a preliminary hearing held under section 49) or any witness, counsel, solicitor or legal officer appearing before an Appeal Tribunal shall have the same immunities or privileges such a party, witness, counsel, solicitor or legal officer respectively would have had in relation to civil proceedings in the Court of First Instance.

*(Amended 25 of 1998 s. 2)*

## **53B. Offences in respect of Appeal Tribunal**

Any person who—

- (a) refuses or fails without reasonable excuse to comply with any lawful order, requirement or direction made or given by the Appeal Tribunal or the Chairman; or
- (b) disturbs or otherwise interferes with the proceedings of the Appeal Tribunal,

commits an offence and is liable to a fine at level 3 and to imprisonment for 6 months.

*(Amended 20 of 2008 s. 30)*

## **53C. Case stated**

- (1) The Appeal Tribunal hearing an appeal may by way of a case stated refer to the Court of Appeal for its decision any question of law relating to the appeal.
- (2) A case stated under subsection (1) shall be so stated before the Appeal Tribunal determines the appeal and be signed

by the Chairman and the Tribunal shall not determine the relevant appeal until the decision of the Court of Appeal has been given.

- (3) Where the Court of Appeal decides a case stated under this section it shall cause a copy of the case together with a copy of its decision, to be sent to the Chairman and the Chairman shall, where appropriate, reconvene the relevant Appeal Tribunal which when reconvened shall determine the relevant appeal.

### **53D. Chairman's power to determine procedure**

The Chairman may, as regards a particular hearing, determine the procedure in relation to a matter if provision has not been made in this Part or regulations under section 38(1B) for the procedure in respect thereof.

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## Part 7

### Transitional Arrangements

(*Part 7 replaced 77 of 1994 s. 12*)

#### 53E. Interpretation

In this Part—

***amending Ordinance*** (修訂條例)—

- (a) in relation to the definition of ***relevant date*** and section 53G, means the Buildings (Amendment) Ordinance 1994 (77 of 1994); and
- (b) in relation to section 53J, means the Buildings (Amendment) Ordinance 2004 (15 of 2004); (*Replaced 15 of 2004 s. 32*)

***relevant date*** (有關日期) means—

- (a) (*Omitted as spent—E.R. 2 of 2012*)
- (b) in section 53G, the date on which sections 12 and 13 of the amending Ordinance come into operation\*.

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Editorial Note:

\* Commencement date: 16 November 1994.

#### 53F. (*Omitted as spent—E.R. 2 of 2012*)

#### 53G. Preservation of right of appeal and determination of pending applications

- (1) Where a person, immediately before the relevant date, has a right of appeal from a decision as regards which he would have had a right of appeal under section 44, had the decision been made after the relevant date (***appealable decision***), but

has not given notice of appeal in respect of that decision, the right of appeal shall, on and from the relevant date, be regarded as a right of appeal conferred by section 44 and may be exercised accordingly.

- (2) Where on the relevant date—
  - (a) a person has given a notice of appeal in respect of an appealable decision but the hearing of the appeal has not commenced, the notice of appeal shall, for the purposes of hearing and determining the appeal, be regarded as a notice of appeal given under section 47;
  - (b) the hearing of any appeal made from an appealable decision has commenced before the authority who was empowered immediately before the relevant date to determine that appeal (*former authority*), notwithstanding anything in the amending Ordinance, but subject to subsection (3), the hearing of the appeal shall be continued and the appeal disposed of as if the amending Ordinance had not been enacted.
- (3) In hearing or determining an appeal pursuant to subsection (2)(b) the former authority shall, as far as circumstances permit, do so in accordance with Part 6 and regulations (if any) made under section 38(1B) and for that purpose any reference in that Part or such regulations to an Appeal Tribunal shall be construed as a reference to the former authority and any order for costs made by the former authority as regards such an appeal shall be regarded as an order for costs made under Part 6.
- (4) Where on the relevant date, an order for costs made in any hearing of an appeal as regards an appealable decision remains unsatisfied wholly or partly, section 51 shall apply as regards such order as if it were an order for costs made under section 51(1).

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*(Amended E.R. 1 of 2012)*

**53H. Inclusion of certain registered professional engineers in geotechnical engineers' register**

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

*(Added 15 of 2004 s. 33. Amended 20 of 2008 s. 31)*

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

- (1) A person who applies under section 3(6) within 12 months from the commencement\* of this section for inclusion in a geotechnical engineers' register shall be deemed to have satisfied section 3(7)(a) for the purposes of his application if he satisfies the conditions specified in subsection (2).
- (2) The conditions referred to in subsection (1) are that the person—
  - (a) is an authorized person included in the list of engineers or is a registered structural engineer, who—
    - (i) during the period of 7 years immediately preceding the date of his application, has been engaged in or has taken part in site formation works carried out and completed in accordance with this Ordinance;

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Editorial Note:

\* Commencement date: 31 December 2004.

- (ii) was the authorized person or registered structural engineer appointed under section 4(1) in respect of the buildings works or street works in relation to which the site formation works were carried out; and
  - (iii) satisfies the Building Authority that he has the appropriate geotechnical experience and competence in relation to the site formation works; or
- (b) is a registered professional engineer in the civil or structural engineering discipline, who—
- (i) has such practical experience in geotechnical engineering as may be approved by the Geotechnical Engineers Registration Committee; and
  - (ii) for a continuous period of 1 year within the 3 years immediately preceding the date of his application, have had such practical experience in geotechnical engineering gained in Hong Kong as the Geotechnical Engineers Registration Committee considers appropriate.
- (3) The Building Authority may require the applicant to furnish such information or documents as the Building Authority may reasonably require for the purpose of considering the application.
- (4) Section 3 shall apply to or in relation to a person who seeks to avail himself of subsections (1) and (2)(a), and in the case where his application is granted, to or in relation to his registration under that section, subject to the following modifications—

- (a) subsections (7) and (7C) of section 3 shall be construed as if paragraph (b) of each of the subsections had been omitted;
  - (b) section 3(9) shall be construed as if for the words “the date of the meeting of the respective Registration Committee at which the application was considered”, there were substituted “the date of receiving the application”;
  - (c) the person shall be deemed to have held the prescribed qualifications referred to in section 3(9D) and (13A) for registration as a registered geotechnical engineer if he remains an authorized person in the list of engineers or a registered structural engineer; and
  - (d) the person shall be deemed to have ceased to hold the prescribed qualifications referred to in section 3(11B) if he ceases to be an authorized person in the list of engineers or a registered structural engineer.
- (5) Regulation 4 of the Building (Administration) Regulations (Cap. 123 sub. leg. A) shall not apply to a person who seeks to avail himself of subsections (1) and (2)(a).
- (6) Section 3 shall apply to or in relation to a person who seeks to avail himself of subsections (1) and (2)(b), and in the case where his application is granted, to or in relation to his registration under that section, subject to the following modifications—
- (a) the reference in section 3(6A)(b)(ii) to the prescribed fee for retention shall be construed as a reference to a fee of \$855;
  - (b) within 3 years beginning on the date from which the person’s registration becomes effective, the person shall be deemed to have ceased to hold the prescribed qualifications referred to in section 3(11B) if he—

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- (i) ceases to be a registered professional engineer in the civil or structural engineering discipline; and
  - (ii) has not obtained the prescribed qualifications for inclusion in a geotechnical engineers' register; and
  - (c) the reference in section 3(15)(b) to 5 years shall be construed as a reference to 3 years.

*(Added 15 of 2004 s. 33)*

### **53J. Transitional provisions for other miscellaneous matters**

- (1) Where an application under section 3(6) or 8B(1) was pending immediately before the commencement\* of the amendments made to section 3(6A)(a) and (15)(b) or 8B(5)(a) by the amending Ordinance, then the application shall be treated and disposed of under section 3 or 8B as amended by the amending Ordinance, as if the applicant had specified in the application—
  - (a) in the case of an application under section 3(6), a period of 5 years beginning on the date of inclusion of his name in the register concerned, for which he seeks his name to be retained in that register; and
  - (b) in the case of an application under section 8B(1), a period of 3 years beginning on the date of inclusion of his name in the register concerned, for which he seeks registration.
- (2) Where an application under section 3(9B) or (12) was pending immediately before the commencement\* of the amendments made to section 3(9B), (13)(c) and (15)(b) by the amending Ordinance, then section 3 and regulation 42 of the Building (Administration) Regulations (Cap. 123 sub. leg. A) in force immediately before that commencement shall continue to apply to and in relation to the application.

- (3) Where an application under section 8C(1) or 8D(1) was pending immediately before the commencement\* of the amendments made to section 8C(2)(d) or 8D(2)(b) by the amending Ordinance, then section 8C or 8D and regulation 42 of the Building (Administration) Regulations (Cap. 123 sub. leg. A) in force immediately before that commencement shall continue to apply to and in relation to the application.
- (4) In relation to an application referred to in subsection (3), the Building Authority may seek the advice of the relevant Contractors Registration Committee on the application.
- (5) Notwithstanding the amendments made to section 8 by the amending Ordinance, on and after the commencement† of those amendments—
  - (a) section 9A shall apply to and in relation to a decision of a Contractors Registration Committee existing immediately before that commencement as if those amendments had not been made; and
  - (b) a recommendation made by the Contractors Registration Committee which was in force immediately before that commencement shall continue to be in force and have effect for the purpose of section 8B(10).

*(Added 15 of 2004 s. 33)*

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Editorial Note:

\* Commencement date: 31 December 2004.

† Commencement date for amendments to section 8(3) and (3A): 31 December 2004;

Commencement date for amendments to section 8(5): 31 December 2005.

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## Part 8

### Saving and Validation

#### 54. Saving

Notwithstanding the repeal of the Buildings Ordinance 1935 (18 of 1935), the provisions of sections 110 to 126 of that Ordinance set out in Schedule 2 hereto shall continue in operation until such time as they are replaced by regulations enacted under section 38 or by any other enactment expressed to be in substitution for the provisions of the said sections: (*Amended 16 of 1966 s. 11; 16 of 2011 s. 30*)

Provided that any reference to an architect in the said sections 110 to 126 shall be taken as references to an authorized person. (*Added 52 of 1974 s. 14*)

#### 55. Validation

- (1) Any public officer whom the Director of Building Development purported to authorize for the purposes of section 2(2) of this Ordinance at any time before the commencement of the Buildings (Amendment) (No. 2) Ordinance 1985 (73 of 1985) shall be deemed to have been validly authorized, notwithstanding that the public officer was not an officer of the Building Development Department. (*Amended 42 of 1992 s. 10*)
- (2) Every act or thing done by the Building Authority or by any public officer authorized by him in writing in that behalf before the commencement of the Buildings (Amendment) Ordinance 1992 (42 of 1992) that would have been lawful if section 28 (as amended by section 3(a) of that Ordinance) had been in force at the time when it was done is hereby validated

and declared to have been lawfully done by him. (*Added 42 of 1992 s. 10. Amended 77 of 1992 s. 5*)

- (2A) Every act or thing done by the Building Authority or by any public officer authorized by him in writing in that behalf, before the commencement of the Buildings (Amendment) (No. 2) Ordinance 1992 (77 of 1992) that would have been lawful if—
- (a) section 28(7)(a); and
  - (b) section 28(7)(c) (in so far as it relates to the power to carry out or cause to be carried out such drainage works as the Building Authority considers necessary or expedient but as if there was no requirement to have regard to the findings of an investigation),

had been in force at the time when it was done is hereby validated and declared to have been lawfully done by him. (*Added 77 of 1992 s. 5*)

- (3) Every act or thing done by any officer of the Drainage Services Department before 21 November 1991 that would have been lawful if Schedule 4 (as amended by the resolution of the Legislative Council (L.N. 406 of 1991)) had been in force and if the act or thing done had been authorized by the Director of Buildings and Lands at the time when it was done is hereby validated and declared to have been lawfully done by the officer. (*Added 42 of 1992 s. 10. Amended 16 of 2011 s. 31*)

*(73 of 1985 s. 4 incorporated)*

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## Part 9

(*Part 9 added 20 of 2008 s. 32*)

### 56. Savings and transitional provisions relating to minor works

- (1) Where, before the date of commencement, the Building Authority has given approval and consent for the commencement of any building works under section 14(1), the building works shall not be treated as minor works for the purposes of this Ordinance notwithstanding that they are building works designated as minor works in the regulations.
  - (2) Where any building works, which are exempt from section 14(1) by virtue of section 41(3) or (3A) as it was in force immediately before the date of commencement, have been completed or are being carried out as at the beginning of the date of commencement, the building works shall not be treated as minor works for the purposes of this Ordinance notwithstanding that they are building works designated as minor works in the regulations.
  - (3) In this section, *date of commencement* (生效日期) means the date on which section 29 of the Buildings (Amendment) Ordinance 2008 (20 of 2008) comes into operation\*.
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Editorial Note:

\* In operation on 31 December 2010.

## First Schedule

*(Repealed 77 of 1994 s. 13)*

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## Schedule 2

[s. 54]

### Provisions of Buildings Ordinance 1935 to Continue in Operation

#### Rights of Building and Adjoining Owners

##### 110. Definitions *adjoining owner* and *building owner*; provisions for buildings adjoining unbuilt-on land

(1) In this section and in sections 111 to 126—

*adjoining owner* (毗鄰擁有人) means an owner, and *adjoining occupier* (毗鄰佔用人) means an occupier, of land, buildings, storeys or rooms adjoining those of a building owner;

*building owner* (建築物擁有人) means such one of the owners of adjoining land who is desirous of building, or such one of the owners of buildings, storeys or rooms, separated from one another by a party wall or party structure who does or is desirous of doing a work affecting that party wall or party structure.

(2) Where lands held under lease from the Government by different owners adjoin and are unbuilt-on at the line of junction, and either owner is about to build on any part of the line junction, the following provisions shall have effect.  
*(Amended 29 of 1998 s. 105)*

(3) If the building owner desires to build a party wall on the line of junction, he shall serve notice thereof on the adjoining owner describing the intended wall.

(4) If the adjoining owner consents to the building of a party wall, the wall shall built half on the land of each of the 2

owners, or in such other position as may be agreed between them.

- (5) The expenses of the building of the party wall shall from time to time be defrayed by the 2 owners in due proportion, regard being had to the use made and which may be made of the wall by them respectively.
- (6) If the adjoining owner does not consent to the building of a party wall, the building owner shall not build the wall otherwise than as an external wall placed wholly on his own land.
- (7) If the building owner does not desire to build a party wall on the line of junction but desires to build an external wall placed wholly on his own land, he shall serve notice thereof on the adjoining owner describing the intended wall.
- (8) Where in any of the cases aforesaid the building owner proceeds to build an external wall on his own land, he shall have a right at his own expense, at any time after the expiration of 1 month from the service of the notice, to place on the land of adjoining owner below the level of the lowest floor, the projecting footings of the external wall with concrete or other solid substructure thereunder, making compensation to the adjoining owner or occupier for any damage occasioned thereby. The amount of such compensation, if any difference arises, shall be determined in the manner in which differences between building owners and adjoining owners are hereinafter directed to be determined.
- (9) Where an external wall is built against another external wall or against a party wall, it shall be lawful for the Building Authority to allow the footing of the side next such other external or party wall to be omitted.

### **111. Rights of building owner in relation to party structures, etc.; existing prior building**

The building owner shall have the following rights in relation to party structures and adjoining structures—

- (a) to make good, underpin, or repair any party structure which is defective or out of repair;
- (b) to pull down and rebuild any party structure which is so far defective or out of repair as to make it necessary or desirable to pull it down;
- (c) to pull down any timber or other partition which divides any buildings, and is not conformable to the provisions of this Ordinance, and to build instead thereof a party wall conformable thereto;
- (d) in the case of buildings having rooms or storeys the property of different owners intermixed, to pull down such of the said rooms or storeys, or any part thereof as are not built in conformity with this Ordinance, and to rebuild the same in conformity therewith;
- (e) in the case of buildings connected by arches or communications over streets belonging to other persons, to pull down such of the said buildings, arches or communications or such parts thereof as are not built in conformity with this Ordinance, and to rebuild the same in conformity therewith;
- (f) to raise and underpin any party structure permitted by this Ordinance to be raised or underpinned or any external wall built against such party structure, upon condition of making good all damage occasioned thereby to the adjoining premises or to the internal finishings and decorations thereof, and of carrying up to the requisite height all flues and chimney stacks belonging to the adjoining owner on or against such party structure or external wall;

- (g) to pull down any party structure which is of insufficient strength for any building intended to be built, and to rebuild the same of sufficient strength for the above purposes, upon condition of making good all damage occasioned thereby to the adjoining premises or to the internal finishings and decorations thereof;
- (h) to cut into any party structure upon condition of making good all damage occasioned to the adjoining premises by such operation;
- (i) to cut away any footing or any chimney-breast, jamb or flue projecting, or other projection from any party wall or external wall in order to erect an external wall against such party wall, or for any other purpose, upon condition of making good all damage occasioned to the adjoining premises by such operation;
- (j) to cut away or take down such parts of any wall or building of an adjoining owner as may be necessary in consequence of such wall or building overhanging the ground of the building owner, in order to erect an upright wall against the same, on condition of making good any damage sustained by the wall or building by such operation;
- (k) to raise a party fence wall, or to pull the same down and rebuild it as a party wall;
- (l) to perform any other necessary works incident to the connexion of a party structure with the premises adjoining thereto:

Provided that these rights shall be subject to this qualification, that any building which has been erected prior to 21 February 1903 shall be deemed to be conformable to the provisions hereof if it be conformable to the provisions of the Ordinances regulating buildings before that date.

**112. Requirements of adjoining owner in relation to party structures; differences between building owner and adjoining owner**

- (1) Where a building owner proposes to exercise any of the foregoing rights with respect to party structures, the adjoining owner may by notice require the building owner to build on any such party structure such chimney copings, jambs, or breasts, or flues, or such piers or recesses, or any other like works as may fairly be required for the convenience of such adjoining owner, and may be specified in the notice; and it shall be the duty of the building owner to comply with such requisition in all cases where the execution of the required works will not be injurious to the building owner, or cause to him unnecessary inconvenience or unnecessary delay in the exercise of his right.
- (2) Any difference that arises between a building owner and an adjoining owner in respect of the execution of any such works shall be determined in the manner in which differences between building owners and adjoining owners are hereinafter directed to be determined.

**113. Notice to be given by building owner before work commences**

- (1) A building owner shall not, except with the consent in writing of the adjoining owner, and of the adjoining occupiers, or in cases where any wall or party structure is dangerous (in which cases the appropriate provisions of this Ordinance shall apply), exercise any of his rights under this Ordinance in respect of any party fence wall unless at least 1 month, or exercise any of his rights under this Ordinance in relation to any party wall or party structure other than a party fence wall, unless at least 2 months before doing so he has served on the adjoining owner of the party fence wall, the party wall or

party structure, as the case may be, notice stating the nature and particulars of the proposed work and the time at which the work is proposed to be commenced.

- (2) When a building owner in the exercise of any of his rights under this Ordinance lays open any part of the adjoining land or building, he shall at his own expense make and maintain for a proper time a proper hoarding and shoring or temporary construction for protection of the adjoining land or building and the security of the adjoining occupier.
- (3) A building owner shall not exercise any right given to him by this Ordinance in such manner or at such time as to cause unnecessary inconvenience to the adjoining owner or to the adjoining occupier.
- (4) A party wall or structure notice shall not be available for the exercise of any right, unless the work to which the notice relates is begun within 6 months after the service thereof, and is prosecuted with due diligence.
- (5) Within 1 month after receipt of such notice the adjoining owner may serve on the building owner a notice requiring him to build on any such party structure any works to the construction of which he is hereinbefore declared to be entitled.
- (6) The last-mentioned notice shall specify the works required by the adjoining owner for his convenience, and shall, if necessary, be accompanied by explanatory plans and drawings.
- (7) If either owner does not, within 14 days after the service on him of any notice, express his consent thereto, he shall be considered as having dissented therefrom, and thereupon a difference shall be deemed to have arisen between the building owner and the adjoining owner

**114. Differences between building owner and adjoining owner**

- (1) In all cases not specially provided for by this Ordinance, where a difference arises between a building owner and an adjoining owner in respect of any matter arising with reference to any work to which any notice given under this Ordinance relates, unless both parties concur in the appointment of 1 architect they shall each appoint an architect, and the 2 architects so appointed shall select a third architect, and such 1 architect, or 3 architects, or any 2 of them, shall settle any matter from time to time during the continuance of any work to which the notice relates in dispute between such building owner and adjoining owner, with power by his or their award to determine the right to do, and the time and manner of doing any work, and generally any other matter arising out of or incidental to such difference; but any time so appointed for doing any work shall not, unless otherwise agreed, commence until after the expiration of the period by this Ordinance prescribed for the notice in the particular case. (*Amended L.N. 159 of 1990*)
- (2) Any award given by such 1 architect, or by such 3 architects, or by any 2 of them, shall be conclusive, and shall not be questioned in any court; with this exception, that either of the parties to the difference may within 14 days from the date of the delivery of the award, appeal therefrom to a judge in chambers, who may, subject as hereafter in this section mentioned, rescind the award or modify it in such manner as he thinks just.
- (3) If either party to the difference makes default in appointing an architect for 10 days after notice has been served on him by the other party to make such appointment, the party giving the notice may make the appointment in the place of the party so making default.

- (4) The costs incurred in making or obtaining the award shall be paid by such party as the architect or architects determine.
- (5) If the appellant on appearing before the judge declares his unwillingness to have the matter decided by him, and proves to his satisfaction that in the event of the matter being decided against him he will be liable to pay a sum, exclusive of costs, exceeding \$500, and gives security, to be approved by the judge, duly to prosecute an action in the Court of First Instance and to abide the event thereof, all proceedings in Chambers shall thereupon be stayed, and the appellant may bring an action in the Court of First Instance against the other party to the difference. *(Amended 62 of 2000 s. 3)*
- (6) The plaintiff in such action shall deliver to the defendants an issue whereby the matters in difference between them may be tried, and the form of such issue in case of dispute or of the non-appearance of the defendant shall be settled by the court, and the action shall be prosecuted and the issue tried in all respects as if it were an ordinary action or issue in the Court of First Instance, or as near thereto as circumstances admit. *(Amended 62 of 2000 s. 3)*
- (7) If the parties agree as to the facts a special case may be stated for the opinion of the court, and such case shall be heard and decided in all respects as if it were an ordinary case stated for the opinion of the court, or as near thereto as circumstances admit; and any costs that may have been incurred before the judge in chambers shall be deemed to be costs incurred in the action and be payable accordingly.
- (8) Where both parties have concurred in the appointment of 1 architect, then, if he refuses, or for 7 days neglects to act, or if he dies or becomes incapable of acting before he has made his award, the matters in dispute shall be determined in the same manner as if he had not been appointed.

- (9) Where each party has appointed an architect and a third architect has been selected, then, if he refuses, or for 7 days neglects to act, or before such difference is settled, dies, or becomes incapable of acting, the 2 architects shall forthwith select another architect in his place who shall have the same powers and authorities as were vested in his predecessor.
- (10) Where each party has appointed an architect, then, if the 2 architects refuse, or, for 7 days after request of either party, neglect to select a third architect, or another third architect as aforesaid the Chief Executive may, on the application of either party, appoint the Director of Buildings or some other fit person to act as third architect who shall have the same powers and authorities as if he had been selected by the 2 architects appointed by the parties. (*Amended L.N. 76 of 1982; L.N. 94 of 1986; L.N. 291 of 1993; 62 of 2000 s. 3*)
- (11) Where each party has appointed an architect, then, if before the difference is settled either architect dies, or becomes incapable of acting, the party by whom he was appointed may appoint some other architect to act in his place, and if for the space of 7 days after notice served on him by the other party for that purpose, he fails to do so, the other architect may proceed ex parte, and his decision shall be as effectual as if he had been a single architect in whose appointment both parties had concurred; an architect so substituted as aforesaid shall have the same powers and authorities as were vested in the former architect at the time of his death or disability.
- (12) Where each party has appointed an architect, then, if either of the architects refuses, or for 7 days neglects to act the other may proceed ex parte, and his decision shall be as effectual as if he had been a single architect in whose appointment both parties had concurred.
- (13) In this section, **architect** (建築師) means **authorized architect**.

**115. Right of entry of building owner**

A building owner, his servants, agents and workmen, at all usual times of working, may enter and remain on any premises for the purpose of executing, and may execute any work which he has become entitled or is required in pursuance of this Ordinance to execute, removing any furniture or doing any other thing which may be necessary; and if the premises are closed, he and they may, accompanied by a police officer, break open any fences or doors in order to effect such entry:

Provided that before entering on any premises for the purpose of this section the building owner shall give 14 days' notice of his intention so to do to the owner and occupier. In case of emergency he shall give such notice only as may be reasonably practicable.

**116. Underpinning or strengthening of foundations of adjoining building**

Where a building owner intends to erect within 3 metres of a building belonging to an adjoining owner a building any part of which within such 3 metres extends to a lower level than the foundations of the building belonging to the adjoining owner, he may, and, if required by the adjoining owner, shall (subject as hereinafter provided) underpin or otherwise strengthen the foundations of the said building so far as may be necessary, and the following provisions shall have effect— *(Amended L.N. 294 of 1976)*

- (a) at least 2 months' notice in writing shall be given by the building owner to the adjoining owner stating his intention to build, and whether he proposes to underpin or otherwise strengthen the foundations of the said building, and such notice shall be accompanied by a plan and sections, showing the site of the proposed building, and the depth to which he proposes to excavate;

- (b) if the adjoining owner shall, within 14 days after being served with such notice, give a counternotice in writing that he disputes the necessity of such underpinning or strengthening, or that he requires such underpinning or strengthening, then, if such counternotice is not acquiesced in, a difference shall be deemed to have arisen between the building owner and the adjoining owner;
- (c) the building owner shall be liable to compensate the adjoining owner and occupier for any inconvenience, loss or damage which may result to them by reason of the exercise of the powers conferred by this section;
- (d) nothing in this section contained shall relieve the building owner from any liability to which he would otherwise be subject in case of injury caused by his building operations to the adjoining owner.

**117. Adjoining owner may require security to be given for payment of expenses and counter requisition by building owner**

- (1) An adjoining owner may, if he thinks fit, by notice in writing, require the building owner (before commencing any work which he may be authorized by this Ordinance to execute) to give such security as may be agreed upon, or in case of difference as may be settled by a judge in chambers, for the payment of all such expenses, costs and compensation in respect of the work as may be payable by the building owner.
- (2) The building owner may, at any time after service on him of a party wall or party structure requisition by the adjoining owner, and before beginning a work to which the requisition relates, but not afterwards, serve a counter requisition on the adjoining owner, requiring him to give such security for payment of the expenses, costs, and compensation for which

he is or will be liable, as may be agreed upon, or, in case of difference, as may be settled as aforesaid.

- (3) If the adjoining owner does not within 1 month after service of the counter requisition give security accordingly, he shall at the end of that month be deemed to have ceased to be entitled to compliance with his party wall or party structure requisition, and the building owner may proceed as if no party wall or party structure requisition had been served on him by the adjoining owner.

## **118. Expenses to be borne jointly by building owner and adjoining owner**

- (1) As to expenses to be borne jointly by the building owner and adjoining owner the following provisions shall apply.
- (2) If any party structure is defective or out of repair, the expenses of making good, underpinning, or repairing the same shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner makes or may make of the structure.
- (3) If any party structure is pulled down and rebuilt by reason of its being so far defective or out of repair as to make it necessary or desirable to pull it down, the expense of such pulling down and rebuilding shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner may make of the structure.
- (4) If any timber or other partition dividing a building is pulled down in exercise of the right by this Ordinance vested in a building owner, and a party structure is built instead thereof, the expense of building such party structure and also of building any additional party structures that may be required by reason of the partition having been pulled down, shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner may

make of the party structure and to the thickness required for the support of the respective buildings parted thereby.

- (5) If any rooms or storeys or any parts thereof, the property of different owners, and intermixed in any building, are pulled down in pursuance of the right by this Ordinance vested in a building owner, and are rebuilt in conformity with this Ordinance, the expense of such pulling down and rebuilding shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner may make of such rooms or storeys.
- (6) If any arches or communications over public ways or over passages belonging to other persons than the owners of the buildings connected by such arches or communications, or any part thereof, are pulled down in pursuance of the right by this Ordinance vested in a building owner, and are rebuilt in conformity with this Ordinance, the expense of such pulling down and rebuilding shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner makes of such arches or communications.

#### **119. Expenses to be borne by the building owner**

- (1) As to expenses to be borne by the building owner the following provisions shall apply.
- (2) If any party structure or any external wall built against another external wall is raised or underpinned in pursuance of the power by this Ordinance vested in a building owner, the expense of raising or underpinning the same and of making good all damage occasioned thereby, and of carrying up to the requisite height all such flues and chimney-stacks belonging to the adjoining owner on or against any such party structure or external wall as are by this Ordinance required to be made good and carried up, shall be borne by the building owner.

- (3) If any party structure, which is of proper materials and sound or not so far defective or out of repair as to make it necessary or desirable to pull it down, is pulled down and rebuilt by the building owner, the expense of pulling down and rebuilding the same and of making good any damage by this Ordinance required to be made good, and a fair allowance in respect of the disturbance and inconvenience caused to the adjoining owner shall be borne by the building owner.
- (4) If any party structure is cut into by the building owner, the expense of cutting into the same, and of making good any damage by this Ordinance required to be made good shall be borne by such building owner.
- (5) If any footing, chimney-breast, jamb or floor is cut away in pursuance of the powers by this Ordinance vested in a building owner, the expense of such cutting away and making good any damage by this Ordinance required to be made good shall be borne by the building owner.
- (6) If any party fence wall is raised for a building, the expense of such raising shall be borne by the building owner.
- (7) If any party fence wall is pulled down and built as a party wall the expense thereof shall be borne by the building owner.

**120. Proportion of expenses which may be borne by adjoining owner**

If at any time the adjoining owner makes use of any party structure or external wall (or any part thereof) raised or underpinned as aforesaid, or of any party fence wall pulled down and built as a party wall (or any part thereof) beyond the use thereof made by him before the alteration, there shall be borne by the adjoining owner from time to time a due proportion of the expenses (having regard to the use that the adjoining owner may make thereof)—

- (a) of raising or underpinning such party structure or external wall, and of making good all such damage occasioned thereby to the adjoining owner, and of carrying up to the requisite height all such flues and chimney-stacks belonging to the adjoining owner on or against any such party structure or external wall as are by this Ordinance required to be made good and carried up;
- (b) of pulling down and building such party fence wall as a party wall.

## **121. Statement of expenses to be submitted by building owner**

Within 1 month after the completion of any work which a building owner is by this Ordinance authorized or required to execute, and the expense of which is in whole or in part to be borne by an adjoining owner, the building owner shall deliver to the adjoining owner an account in writing of the particulars and expense of the work, specifying any deduction to which such adjoining owner may be entitled in respect of old materials, or in other respects, and every such work shall be estimated and valued at fair average rates and prices according to the nature of the work, and the locality and the market price of materials and labour at the time.

## **122. Difference between building owner and adjoining owner as to expenses**

At any time within 1 month after the delivery of the said account the adjoining owner, if dissatisfied therewith, may declare his dissatisfaction to the building owner by notice in writing served by himself or his agent, and specifying his objections thereto, and thereupon a difference shall be deemed to have arisen between the parties, and shall be determined in manner hereinbefore provided for the settlement of differences between building and adjoining owners.

**123. Failure by adjoining owner to express dissatisfaction to be deemed acceptance**

If within the said period of 1 month the adjoining owner does not declare in the said manner his dissatisfaction with the account, he shall be deemed to have accepted the same, and shall pay the same on demand to the party delivering the account, and, if he fails to do so, the amount so due may be recovered as a debt.

**124. Adjoining owner failing to contribute, building owner to become sole owner**

Where the adjoining owner is liable to contribute to the expenses of building any party structure, then, until such contribution is paid, the building owner at whose expense the same was built shall stand possessed of the sole property in the structure.

**125. Adjoining owner liable for expenses incurred on his requisition**

The adjoining owner shall be liable for all expenses incurred on his requisition by the building owner, and in default of payment the same may be recovered from him as a debt.

**126. Other easements and rights in regard to party structures preserved**

Nothing in this Ordinance shall authorize any interference with any other easements in or relating to a party wall, or take away, abridge, or prejudicially affect any right of any person to preserve or restore any other thing in or connected with a party wall in case of the party wall being pulled down or rebuilt.

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## **Schedule 3**

[s. 18(6)(c)]

### **Form of Warrant**

HONG KONG.

IN THE MAGISTRATE'S COURT AT

WHEREAS I, a magistrate of Hong Kong, am satisfied by evidence on oath that .....

.....  
(here specify name(s) of person(s) authorized to enter the building under section 18(6)(a) of the Buildings Ordinance) has/have been authorized by the Building Authority to enter .....

.....  
(address of building) under section 18(6)(a) of the Buildings Ordinance:

AND WHEREAS I am also satisfied by evidence on oath that the entry to such building of a person authorized to enter the same by or under the said section 18(6)(a) of the Buildings Ordinance has been obstructed:

THESE are, therefore, to authorize the said .....  
and his/their servants or agents and his/their agent's/agents' servants (being persons authorized prior to the issue of this warrant to enter the building aforesaid by or under section 18(6)(a) or (b) of the Buildings Ordinance) and any police officer of or above the rank of inspector and any other police officer acting under his direction to enter the building aforesaid on such occasion or occasions and at such time or times as may be necessary for the purpose for which the said .....  
was/were authorized to enter the said building under section 18(6)(a) of the Buildings Ordinance.

Buildings Ordinance

Schedule 3

S3-4

Cap. 123

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[L.S.]

(Signed).....

Magistrate.

*(Added 40 of 1965 s. 11. Amended 16 of 1966 s. 12; 25 of 1998 s. 2)*

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## **Schedule 4**

[s. 2(2)]

### **Departments**

1. Housing Department.
  2. Buildings Department.
  3. Architectural Services Department.
  4. Civil Engineering and Development Department.
  5. *(L.N. 104 of 2004)*
  6. Highways Department.
  7. Drainage Services Department. *(Added L.N. 406 of 1991)*  
*(Replaced L.N. 94 of 1986. Amended L.N. 127 of 1986; L.N. 364 of 1991; L.N. 291 of 1993; L.N. 104 of 2004)*
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## Schedule 5

[ss. 2 and 41]

(Amended 20 of 2008 s. 33; L.N. 221 of 2021)

### Scheduled Areas

Area Number	Description
1.	Mid-levels area being the area delineated and shown edged black on a plan numbered GCB1, dated 28 April 1982, signed by the Secretary for Lands and Works and deposited in the Land Registry.
2.	North-western part of the New Territories being the area delineated and shown edged black on a plan numbered GS-SP/714-1, dated 8 June 1990, signed by the Secretary for Planning, Environment and Lands and deposited in the Land Registry.
3.	<p>(1) The railway protection areas along the Mass Transit Railway lines being— (Amended L.N. 177 of 2003)</p> <p>(a) the areas delineated and shown edged black on the plans numbered MTR/RP/1, MTR/RP/3 to 6, MTR/RP/8 to 22, MTR/RP/25 to 27, MTR/RP/30 to 32, MTR/RP/35 to 37, MTR/RP/39 to 46, MTR/RP/54 and 55, MTR/RP/60 to 66, MTR/RP/104 to 106, MTR/RP/111, MTR/RP/115 to 139 and MTR/RP/142 to 170, dated 29 June 1998, signed by the Secretary for Planning, Environment and Lands and deposited in the Land Registry; (Amended L.N. 129 of 2012; L.N. 125 of 2015; L.N. 221 of 2021)</p>

Buildings Ordinance

Schedule 5

S5-4

Cap. 123

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Area Number	Description
(b)	the areas delineated and shown edged black on the plans numbered MTR/G/4, MTR/RP/23 Rev. A, MTR/RP/24 Rev. A, MTR/RP/28 Rev. A, MTR/RP/29 Rev. A, MTR/RP/56 Rev. A, MTR/RP/57 Rev. A, MTR/RP/58 Rev. A, MTR/RP/59 Rev. A and MTR/RP/202 to 223, dated 29 May 2002, signed by the Secretary for Planning and Lands and deposited in the Land Registry; ( <i>Replaced L.N. 116 of 2002. Amended L.N. 129 of 2012; L.N. 125 of 2015</i> )
(c)	the areas delineated and shown edged black on the plans numbered MTR/G/2 Rev. A, MTR/G/3 Rev. A, MTR/RP/140 Rev. A, MTR/RP/141 Rev. A and MTR/RP/301 to 306, dated 16 May 2012, signed by the Secretary for Development and deposited in the Land Registry; ( <i>Added L.N. 129 of 2012. Amended L.N. 125 of 2015; L.N. 221 of 2021</i> )
(d)	the areas delineated and shown edged black on the plans numbered MTR/RP/401 to 410, dated 2 March 2015, signed by the Secretary for Development and deposited in the Land Registry; and ( <i>Added L.N. 125 of 2015. Amended L.N. 221 of 2021</i> )

Buildings Ordinance

Schedule 5

S5-6

Cap. 123

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Area Number	Description
(e)	the areas delineated and shown edged black on the plans numbered MTR/G/1 Rev. B, MTR/RP/2 Rev. A, MTR/RP/7 Rev. A, MTR/RP/33 Rev. A, MTR/RP/34 Rev. A, MTR/RP/38 Rev. A, MTR/RP/51 Rev. A, MTR/RP/52 Rev. A, MTR/RP/53 Rev. A, MTR/RP/101 Rev. A, MTR/RP/102 Rev. A, MTR/RP/103 Rev. A, MTR/RP/107 Rev. A, MTR/RP/108 Rev. A, MTR/RP/109 Rev. A, MTR/RP/110 Rev. A, MTR/RP/112 Rev. A, MTR/RP/113 Rev. A, MTR/RP/114 Rev. A, MTR/RP/501 to 507 and MTR/RP/601 to 613, dated 29 July 2021, signed by the Secretary for Development and deposited in the Land Registry. <i>(Added L.N. 221 of 2021)</i>
(2)	The railway protection areas along the railway lines of the Kowloon-Canton Railway Corporation being— <i>(Amended L.N. 133 of 2004)</i>

Buildings Ordinance

Schedule 5

S5-8

Cap. 123

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Area Number	Description
(a)	the areas delineated and shown edged black on the plans numbered KCR/WR/RP/101 Rev. 1, KCR/WR/RP/102 Rev. 1, KCR/WR/RP/103 Rev. 1, KCR/WR/RP/104 Rev. 1, KCR/WR/RP/105 Rev. 1, KCR/WR/RP/106 Rev. 1, KCR/WR/RP/107 Rev. 1, KCR/WR/RP/108 Rev. 1, KCR/WR/RP/109 Rev. 1, KCR/WR/RP/110 Rev. 1, KCR/WR/RP/111 Rev. 1, KCR/WR/RP/112 Rev. 1, KCR/WR/RP/113 Rev. 1, KCR/WR/RP/114 Rev. 1, KCR/WR/RP/115 Rev. 1, KCR/WR/RP/116 Rev. 1, KCR/WR/RP/117 Rev. 1, KCR/WR/RP/118 Rev. 1, KCR/WR/RP/119 Rev. 1, KCR/WR/RP/120 Rev. 1, KCR/WR/RP/121 Rev. 2, KCR/WR/RP/122 Rev. 1, KCR/WR/RP/123 Rev. 1, KCR/WR/RP/124 Rev. 1, KCR/WR/RP/125 Rev. 1, KCR/WR/RP/126 Rev. 1, KCR/WR/RP/127 Rev. 1, KCR/WR/RP/128 Rev. 1, KCR/WR/RP/129 Rev. 1, KCR/WR/RP/130 Rev. 1, KCR/WR/RP/131 Rev. 1, KCR/WR/RP/132 Rev. 1, KCR/WR/RP/133 Rev. 1, KCR/WR/RP/134 Rev. 1, KCR/WR/RP/135 Rev. 1, KCR/WR/RP/136 Rev. 1 and KCR/WR/RP/139 Rev. 1, dated 6 June 2003, signed by the Secretary for Housing, Planning and Lands and deposited in the Land Registry; <i>(Added L.N. 177 of 2003. Amended L.N. 133 of 2004; L.N. 129 of 2012)</i>

Area Number	Description
(b)	the area delineated and shown edged black on a plan numbered KCR/ERE/TSTE/RP/111, dated 1 June 2004, signed by the Secretary for Housing, Planning and Lands and deposited in the Land Registry; ( <i>Added L.N. 133 of 2004. Amended L.N. 129 of 2012; L.N. 221 of 2021</i> )
(c)	the areas delineated and shown edged black on the plans numbered KCR/WR/RP/100 Rev. 3, KCR/WR/RP/137 Rev. 2, KCR/WR/RP/138 Rev. 2, KCR/WR/RP/140 Rev. 2, KCR/WR/RP/141 Rev. 2, KCR/ERE/TSTE/RP/101 Rev. C, MTR/RP/1658 to 1659, MTR/RP/1670 to 1680 and MTR/RP/1804, dated 16 May 2012, signed by the Secretary for Development and deposited in the Land Registry; and ( <i>Added L.N. 129 of 2012. Amended L.N. 221 of 2021</i> )
(d)	the areas delineated and shown edged black on the plans numbered KCR/WR/RP/142 Rev. 3, KCR/WR/RP/143 Rev. 3, KCR/WR/RP/144 Rev. 3, KCR/WR/RP/145 Rev. 3, MTR/RP/800 to 869, MTR/RP/1805 Rev. A, MTR/RP/1806 Rev. A, MTR/RP/1807 Rev. A, MTR/RP/1808 Rev. A and MTR/RP/1809 Rev. A, dated 29 July 2021, signed by the Secretary for Development and deposited in the Land Registry. ( <i>Added L.N. 221 of 2021</i> )
4.	Ma On Shan area being the area delineated and shown edged black on a plan numbered GS-SP/717-3, dated 25 March 1993, signed by the Secretary for Planning, Environment and Lands and deposited in the Land Registry. ( <i>Added 68 of 1993 s. 21</i> )

Buildings Ordinance

Schedule 5

S5-12

Cap. 123

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Area Number	Description
5.	<p>The sewage tunnel protection areas being the areas delineated and shown edged black on the plans numbered KCE/S/G/765B, KCE/S/G/766B, KCE/S/G/767B, KCE/S/G/768B, KCE/S/G/769B, KCE/S/G/770B, KCE/S/G/771B and 90806/STPA/1000 to 1004, dated 16 May 2012, signed by the Secretary for Development and deposited in the Land Registry. <i>(Added 6 of 1995 s. 6. Amended L.N. 129 of 2012)</i></p> <p><i>(Replaced 52 of 1990 s. 9. Amended 8 of 1993 s. 2)</i></p> <hr/>

## Schedule 6

[s. 28C(1)]

### Form of Warrant

HONG KONG.

IN THE MAGISTRATE'S COURT AT

WHEREAS I, a magistrate of Hong Kong, am satisfied by evidence on oath that .....  
(here specify name(s) of person(s) authorized to enter upon the land and carry out and/maintain\* groundwater drainage works under section 28B of the Buildings Ordinance) has/have\* been authorized by the Building Authority to enter upon .....  
(address of land) and there carry out and/maintain\* groundwater drainage work under section 28B of the Buildings Ordinance:

AND WHEREAS I am also satisfied by evidence on oath that the entry upon that land/and/the/carrying out/maintenance\* of those works by one or more of the persons so authorized has been obstructed:

THESE are, therefore, to authorize the said ..... and his/their\* servants or agents and his/their\* agent's/agents'\* servants (being persons so authorized before the issue of this warrant) to enter upon that land on such occasions and at such times as may be necessary for the purpose of carrying out those works and to carry out/and/maintain\* those works;

Buildings Ordinance

Schedule 6

S6-4

Cap. 123

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AND ALSO to authorize any police officer of or above the rank of inspector and any other police officer acting under his direction to enter upon that land in company with, and for the purpose of preventing the obstruction of, the said .....  
his/their\* servants or his/their\* agent's/agents'\* servants.

(Signed).....

Magistrate

\*Delete whichever is inapplicable.

*(Added 41 of 1982 s. 12. Amended 25 of 1998 s. 2)*

*(Format changes—E.R. 1 of 2012)*

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## Schedule 7

[s. 40(1BE), (1BF) & (1BG)]  
*(Amended E.R. 1 of 2013)*

### **Penalty Notice**

1. A penalty notice under section 40(1BE) must be made in writing stating—
  - (a) that the person served with the penalty notice is required to pay a fixed penalty of \$1,500 within 21 days after the date of the penalty notice;
  - (b) if the person wishes to dispute liability for the offence under section 40(1BD), that the person must notify the Building Authority in writing within 21 days after the date of the penalty notice;
  - (c) that the person is required to comply with the notice served under section 30C(3) or (4), and if the person's failure to comply with the notice continues, the Building Authority may—
    - (i) serve on the person a further penalty notice after the expiry of the penalty notice that is being served; or
    - (ii) proceed to take court proceedings for the person's failure to comply with the notice served under section 30C(3) or (4), and the person would be liable to the fine and imprisonment mentioned in section 40(1BD); and
  - (d) any other related matters, including payment instructions for payment of the fixed penalty.

2. Section 35 applies to the service of a penalty notice under section 40(1BE).
3. If any person on whom a penalty notice has been served has failed to pay the fixed penalty of \$1,500, and has not notified the Building Authority that the person wishes to dispute liability, within 21 days after the date of the penalty notice, a magistrate may, on an application being made in the manner mentioned in section 4 of this Schedule, order the person to pay the fixed penalty of \$1,500, together with a sum of \$300 by way of costs, within 21 days after the date of service of notice of the order.
4. An application under section 3 of this Schedule—
  - (a) may be made in the absence of the person on whom the penalty notice has been served; and
  - (b) must be made in the name of the Secretary for Justice, who may appoint any person or class of persons to make the application.
5. Despite the Magistrate Ordinance (Cap. 227), in an application under section 3 of this Schedule, a magistrate may make an order under that section on production by the applicant to the magistrate of—
  - (a) a copy of the penalty notice served under section 40(1BE); and
  - (b) a certificate of service under section 35(2).
6. In an application under section 3 of this Schedule, a certificate stating—
  - (a) that payment of the fixed penalty of \$1,500 had not been made before the date specified in the certificate; and

- (b) that the person specified in it had not, before the date specified in the certificate, notified the Building Authority that the person wished to dispute liability for the offence under section 40(1BD),

and purporting to be signed by or for the Building Authority is to be admitted in evidence without further proof on its production to the magistrate and, unless there is evidence to the contrary, it is presumed that the certificate is so signed and the certificate is evidence of the facts stated in it.

7. If an order is made under section 3 of this Schedule—
  - (a) the magistrate must cause notice of the order to be served on the person to whom it relates; and
  - (b) the sending of the notice to the person by post at the person's address mentioned in the penalty notice constitutes good service.
8. If any person against whom an order under section 3 of this Schedule has been made fails to pay the fixed penalty and costs, the person is taken, for the purposes of section 68 of the Magistrates Ordinance (Cap. 227), to have failed to pay the sum adjudged to be paid by a conviction and is liable to be imprisoned under that section.
9. If there is evidence to show that a penalty notice served under section 40(1BE) has not come to the notice of the person to whom it relates before the date of the order made under section 3 of this Schedule, the magistrate may, on an application of which reasonable notice has been given to the Building Authority, rescind the order and—
  - (a) if the person wishes to dispute liability for the offence under section 40(1BD), give leave to that effect; or

- (b) if that person does not wish to dispute liability, order that person to pay the fixed penalty of \$1,500 within 21 days after the date of the order.
10. An application for rescission of an order under section 9 of this Schedule may be made in person or by counsel or solicitor on behalf of the applicant and the magistrate, for the purpose of securing the attendance of witnesses and generally for conducting the proceedings, has all the powers of a magistrate hearing a complaint under the Magistrates Ordinance (Cap. 227).
11. An application for rescission of an order under section 9 of this Schedule must be made within 21 days after the date of service of notice of the order made under section 3 of this Schedule, but the magistrate may extend the period if he or she considers it appropriate to do so in the circumstances.
12. If a magistrate gives leave under section 9(a) of this Schedule, proceedings may be taken, despite section 26 of the Magistrates Ordinance (Cap. 227), within 6 months after the date on which the magistrate gives the leave.
13. A magistrate may for good cause, on an application by the Building Authority at any time, rescind any order for the payment of a fixed penalty and costs and any other order made in the same proceedings.
14. If any person against whom an order under section 9(b) of this Schedule has been made fails to pay the fixed penalty, the person is taken, for the purposes of section 68 of the Magistrates Ordinance (Cap. 227), to have failed to pay the sum adjudged to be paid by a conviction and is liable to be imprisoned under that section.

15. If any person on whom a penalty notice under section 40(1BE) has been served notifies the Building Authority that the person wishes to dispute liability or the person is given leave under section 9(a) of this Schedule, proceedings may be taken against that person, and a summons issued in those proceedings may be served on that person in accordance with section 8 of the Magistrates Ordinance (Cap. 227).
16. In proceedings under section 15 of this Schedule, if the court determines that the person is guilty of the offence of failing to comply with the notice served on the person under section 30C(3) or (4) without reasonable excuse, the person is liable to the fine and imprisonment under section 40(1BD).
17. After proceedings have been instituted but not less than 2 days (excluding any Saturday and public holiday) before the day specified in the summons for the person's appearance, the person may pay the fixed penalty of \$1,500 and a sum of \$500 by way of costs with the production of the summons at any magistracy to terminate the proceedings. *(Amended 18 of 2016 s. 14)*
18. If a person's failure to comply with the notice served on the person under section 30C(3) or (4) continues without reasonable excuse despite a penalty notice served under section 40(1BE), the Building Authority may—
  - (a) serve on the person a further penalty notice after the expiry of the penalty notice that is being served; or
  - (b) proceed to take court proceedings against the person under section 40(1BD).
19. The decision of the Building Authority to serve a penalty notice under section 18 of this Schedule is not subject to appeal under section 44.

Buildings Ordinance

Schedule 7

S7-12

Cap. 123

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*(Schedule 7 added 16 of 2011 s. 37)*

*(Format changes—E.R. 2 of 2012)*

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## Schedule 8

[ss. 2(3), 38(1)(ke)(ic) &  
39C(6)(b)(ii)]

### Prescribed Building or Building Works

Item	Description
1.	Signboard of a prescribed type.
2.	Supporting structure for a building services installation, or metal casing for such an installation, of a prescribed type.
3.	Supporting structure for a radio base station of a prescribed type.
4.	Supporting frame for an air-conditioning unit, or for a light fitting, of a prescribed type.
5.	Solid fence wall of a prescribed type.
6.	Mesh fence or metal railing of a prescribed type.
7.	Pole of a prescribed type.
8.	Metal gate of a prescribed type.
9.	Canopy of a prescribed type.
10.	Retractable awning of a prescribed type.
11.	Trellis of a prescribed type.

Buildings Ordinance

Schedule 8

S8-4

Cap. 123

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Item	Description
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|-----|---|
| 12. | Metal ventilation duct or any associated supporting frame of a prescribed type. |
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Note on interpretation:

1. In items 1 to 12—

**prescribed** (訂明) means prescribed in a regulation made under section 38(1)(ke)(ic).

*(Schedule 8 replaced L.N. 69 of 2021)*