

**Construction Industry Council**

**Buildings (Amendment) Bill 2007 for  
the Proposed Minor Works Control System**

In October 2005, the Buildings Department (BD) briefed Members of the then Provisional Construction Industry Co-ordination Board on the revised proposal of minor works control system under the Buildings Ordinance (BO). The concerning Buildings (Amendment) Bill 2007 (“the Amendment Bill”) has been submitted to the Legislative Council in December 2007. This paper serves to introduce to Members the major features of the Amendment Bill.

**Background**

2. The existing building control system under the BO applies to all private building works. Even building works which are minor in nature have to comply fully with the statutory requirements, including the prior approval of plans and consent for commencement by the Building Authority (BA), appointment of authorized persons (AP), registered structural engineers (RSE) and/or registered geotechnical engineers (RGE) (collectively referred to in this paper as “building professionals”) to design, co-ordinate and supervise the works as well as appointment of registered general building contractors (RGBC) or registered specialist contractors (RSC) to carry out the works. The costs and time involved in complying with these requirements are disproportionate to the scale of minor works. As a result, the BO has not been complied with in relation to many of these minor works, rendering a large number of such works unauthorized.

3. This situation is undesirable to both building owners and the Government. The works undertaken by unregistered contractors has no guarantee of quality and may pose threats to public safety. The owners may be ordered to remove such unauthorized works under the BO and may have to face default statutory orders or warning notices being registered against their properties in the Land Registry. The Government has to spend huge resources to take enforcement actions against such unauthorized works.

4. It is therefore necessary to devise a set of simplified statutory requirements by way of amendments to the BO for the carrying out of minor works. Under the proposal, the degree of control on minor works will vary according to their nature, scale and complexity and the risk to safety they pose. The objectives are to improve efficiency and flexibility, enhance building safety and increase the user-friendliness of our building control regime, thus facilitating compliance.

### **The Proposed Minor Works Control System**

5. We propose to amend the BO by way of the Amendment Bill and make new regulations to introduce a system to control the carrying out of minor works. Apart from the existing system under which prior approval and consent of the BA have to be sought for carrying out building works, a set of prescribed requirements that are simpler than the extant regime will be added to the BO. The detailed modus operandi of the minor works control system will be set out in the regulations.

#### Schedule of Minor Works

6. A new category of building works, namely “minor works”, and a new register of “registered minor works contractors” (RMWC) for carrying out such minor works, will be introduced under the BO. In respect of minor works, the requirements for prior approval by the BA of building plans will be dispensed with. Minor works will be classified into three classes according to their nature, scale, complexity and the risk they pose. A general description of the three classes of minor works is as follows:

- (a) Class I minor works are those relatively more complicated minor works (e.g. installation of internal staircases connecting two floors);
- (b) Class II minor works are those comparatively less complex works which can be carried out by registered contractors independently (e.g. repair of external walls); and
- (c) Class III minor works cover small-scale minor works, mostly carried out in household settings by individual workers (e.g. installation of drying racks).

7. The works under each class will be classified into types and items that correspond to the specialization of works in the industry. Each item of minor works will be precisely defined with their dimensions, locations and materials etc. The specifications for the items of minor works will be promulgated in regulations. The BD has established a Working Group and worked very closely with the professional institutes, trade associations and frontline minor works practitioners in formulating the items of minor works. The proposed classification has been drawn up after careful and thorough discussion in the Working Group.

### Control Mechanism

8. Class I minor works are relatively more complicated, which require higher technical expertise and more stringent supervision, and thus should be designed and supervised by APs (with the assistance of RSEs or RGEs as necessary) and carried out by registered contractors (including RGBCs, RSCs and RMWCs). The other two classes of minor works can be carried out by registered contractors (including RMWCs) without the involvement of APs.

9. In respect of the notification procedures, building professionals and registered contractors will be required to notify the BA before the commencement of Classes I and II minor works. Notification of the commencement of Class III minor works is not required. Nevertheless, building professionals and registered contractors are required to certify the completion of any minor works they have undertaken and submit the certificate to the BA.

### Obligations of Owners and Contractors

10. Under the minor works control system, building owners are required to appoint building professionals and/or registered contractors to carry out minor works. They will be liable for an offence only if they knowingly appoint unqualified persons to carry out minor works. The appointed building professionals and/or registered contractors must comply with the statutory requirements, particularly the safety provisions, in performing their duties, failing which disciplinary sanction or other penalties, including fines or imprisonment, may be imposed. The levels of the proposed sanction for minor works are lower than those for similar offences associated with major building works due to the lower risk to safety they pose.

## Registration of RMWCs

11. A registration system will be established for RMWCs under the BO. It largely mirrors that for existing registered contractors under the extant BO. Moreover, the industry has indicated that there are many individual workers who are capable to conduct simple Class III minor works. To cater for such group of workers, we will accept individuals who conduct minor works personally to register as Class III RMWCs. Existing contractor companies and self-employed workers may apply for registration as RMWCs for the relevant classes, types or items of minor works as appropriate according to their qualifications and experience. A transitional period and a provisional registration arrangement will be put in place to allow adequate time for the existing practitioners to prepare for registration.

12. Applicants for registration as RMWCs have to satisfy the BA on their qualifications. These contractors are companies and need to nominate personnel who possess the necessary technical qualifications and work experience to register under the BO. Those who do not possess academic qualifications but only work experience may register as provisional RMWCs and attend top-up courses to enhance their skills before they can be qualified for formal registration.

13. We will accept applications from individual workers who possess relevant trade certificates, apprentice certificates or recognized skills qualifications to register as RMWCs for carrying out individual items of Class III minor works. For workers who do not possess these qualifications, they can apply to register as Class III RMWCs by virtue of their work experience. All these workers are required to attend a mandatory course on statutory requirements and technical skills for Class III minor works before registration.

## Interface with the Construction Workers Registration Ordinance

14. The interface between the proposed registration system and that under the Construction Workers Registration Ordinance (Cap 583) (“CWRO”) was one of the major concerns of the Bills Committee of the Buildings (Amendment) Bill 2003. At that time, Members of the Bills Committee were of the view that workers of the relevant trade registered under the CWRO should be allowed to carry out Class III minor works without further registration under the BO.

15. Nevertheless, during the course of our discussion with the trade, they indicated that there are difficulties for the minor works practitioners to register as skilled workers under the CWRO. Most of the Class III minor works practitioners are involved in multiple trades designated under the CWRO and the skill level required in each trade to fulfill their job assignment is normally less comprehensive and demanding than that required for registration as skilled workers under the CWRO. The trade thus requested and we agreed to establish a separate registration regime under the BO for minor works.

16. Phase I Prohibition of the CWRO that was commenced on 1<sup>st</sup> September 2007 prohibits workers from carrying out construction works on construction sites unless they are registered under the CWRO. The trade has indicated no major difficulty in complying with the requirements in this phase. Practitioners are required to register as "general workers" under the CWRO for carrying out minor works. Regarding the remaining phase of prohibition which would require registration of skilled workers according to their specific areas of expertise, we will review the schedule of designated trades under the CWRO in consultation with the trade before its implementation.

#### Technical Guidelines

17. The BD will issue technical guidelines on minor works to the registered contractors. The guidelines will cover statutory requirements, standard design and details and safety measures in respect of Class II and Class III minor works. It will also cover other related ordinances and civil matters so that the registered contractors and other stakeholders will understand their obligations and responsibilities, including third party liabilities, when conducting minor works.

#### Validation Scheme

18. At present, many supporting frames for air conditioners, drying racks and small canopies are built without prior approval and consent from the BA. We appreciate that these three types of works, though unauthorized, are carried out to meet practical household need. In order to enable owners to retain them for continued use, we propose to introduce a validation scheme as part of the minor works control system. Subject to the inspection and certification by a building professional or registered contractor to confirm their safety, the BA will not take enforcement action against these three types of unauthorized minor works unless their safety conditions change. Alteration, rectification and

reinforcement works may have to be carried out before such works can be certified under the validation scheme.

### Subsidiary Legislation

19. The Secretary for Development will make new regulations under the BO covering the minor works system to deal with matters including classification of minor works, the registration of RMWCs, appointment and duties of building professionals and RMWCs, requirements on submissions and procedures for carrying out minor works and a technical list of minor works. New regulations on fees will also be introduced to specify the registration fees for RMWCs.

### Public Education

20. As the minor works control system is a new concept to the general public, we will conduct an extensive public education campaign to facilitate public understanding of the new legislation. We will conduct our campaign in liaison with the Hong Kong Housing Society (“HKHS”) which has been heavily involved in assisting building owners in building management and maintenance.

21. Upon passage of the Bill and prior to the implementation of the minor works system, we will publish user-friendly pamphlets with easy-to-follow procedural guides for the average households and building owners. We will emphasise in our publicity materials the modus operandi of the new system and the obligations and responsibilities of individual stakeholders. In conjunction with the HKHS, we will also set up advisory services for building owners, contractors and workers to facilitate their compliance with the law.

### **TIMEFRAME**

22. The Amendment Bill was introduced into the Legislative Council on 5<sup>th</sup> December 2007 and is being scrutinized by the Bills Committee. We expect the Bill to be passed in mid-2008. The concerning subsidiary legislations will be introduced into Legislative Council for negative vetting by end of 2008. The minor works control system will then be commenced in phases to cater for early registrations of minor works practitioners as RMWCs. Tentatively the minor works control system will be fully implemented by end of 2009.

## **CONCLUSION**

23. The minor works control system will rationalize the procedures for carrying out minor works and bring improvements to the quality and safety of such works and hence public safety. The competency of the existing contractors and workers who are conducting minor works will be recognized and they will be absorbed in the new control system. Building owners will be benefited by the proposal because of the reduction in the cost and time of compliance. They will find the new system convenient if most of the minor works practitioners in the market can continue their businesses without meeting much difficulties.

**Buildings Department**  
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