

The Minor Works Control System

Introduction

The Minor Works Control System (“MWCS”) came into effect on 31 December 2010 through amendment to the Buildings Ordinance set out in the Buildings (Amendment) Ordinance 2008 and the Building (Minor Works) Regulation (“B(MW)R”)- (Cap.123N). The new MWCS allows the public to carry out minor works in private buildings through simplified procedures.

What’s New under the MWCS

MINOR WORKS

Under the MWCS, a total of 118 categories of building works have been designated as “minor works”. “Minor Works” are divided into three classes (Classes I, II and III) and are subject to different degrees of control depending on the nature, scale, complexity and risk to safety of the works to be carried out. A summary is as follows:

Class I *(40 items)	<i>More complicated works</i> e.g. erection or alteration of solid walls not more than 5m in height; repair of underground drains; building works associated with the removal of stairlifts or lifting platforms, etc.
Class II *(40 items)	<i>Less complex works</i> e.g. erection or alteration of solid fence wall not more than 1.5m in height; repair of windows or window walls, etc.
Class III * (38 items)	<i>Small-scale and common household works</i> e.g. strengthening of unauthorised supporting structure for an air-conditioning unit and drying rack, etc.

*See *Part 3 of Schedule 1 of the B(MW)R* for detailed specifications of work items under each Class

Under each class of minor works, works are further divided into seven types linked to their nature and degree of complexity and specialisation in the construction industry, so that only registered personnel with appropriate qualifications and experience in the applicable area of specialisation can carry out work of the relevant type. Details of the categories of specialisation are set out below:

Types of Minor Works	Specialisation/Nature
Type A	Alteration and Addition Works
Type B	Repair Works
Type C	Works relating to Signboards
Type D	Drainage Works
Type E	Works relating to Structures for Amenities
Type F	Finishing Works
Type G	Demolition Works
<i>* See Part 2 of Schedule 1 of the B(MW)R for work items under each type of work</i>	

REGISTERED MINOR WORKS CONTRACTORS

In addition to the two existing contractors' registers under the Buildings Ordinance (Cap.123) (namely, the general building contractors' register and the specialist contractors' register), the MWCS introduces a Minor Works Contractors' Register to regulate the carrying out of minor works in two categories, namely:

- i. Registered Minor Works Contractors (Individual) - self-employed worker for carrying out various items of Class III minor works only; and
- ii. Registered Minor Works Contractors (Company) - company (including sole proprietorship, corporation and partnership) for carrying out various types and classes of minor works.

Persons who are qualified for carrying out minor works under the Buildings Ordinance therefore now include registered general building contractors, registered specialist contractors and registered minor works contractors. Contractors are only permitted to undertake work items of the relevant Class and Type for which they have been registered.

DESIGNATED EXEMPTED WORKS

Schedule 2 of the B(MW)R introduces 15 items of Designated Exempted Works examples of which include formation or reinstatement of small slab openings and removal of solid fence walls of a height not exceeding 1.1m. The complexity and risk to safety of the exempted works are considered lower than that of other categories of minor works. Accordingly, exempted works can be commenced without the need to appoint registered contractors.

Statutory Requirements for Carrying Out of Minor Works

Under the new system, a person who wishes to arrange for works to be carried out (for example, a property owner or tenant) can commence Class I to Class III minor works without obtaining prior approval and consent of the Building Authority by following the simplified procedures contained in Section 14AA of the Buildings Ordinance. A summary of the simplified procedures is set out below:

Procedures		Class I	Class II	Class III
1	<u>Appointment of Prescribed Building Professionals</u> <ul style="list-style-type: none"> • Appoint an Authorised Person (Registered Architect, Registered Structural Engineer or Registered Surveyor) to design and supervise the works • Where necessary, appoint a Registered Structural Engineer or Registered Geotechnical Engineer to assist in the design and supervision of the works if complicated structural or geotechnical elements are involved 	✓	✗	✗
2	<u>Appointment of Prescribed Registered Contractor</u> (a registered general building contractor, specialist contractor or minor works contractor) who is responsible for carrying out the works	✓	✓	✓
3	The appointed person is required to submit a <u>notification of commencement</u> of works (as specified in Form MW01 or MW03), prescribed plans and details of the works to the Building Authority not less than seven days before the commencement of works	✓	✓	✗
4	Appointed person is to submit a <u>certificate of completion</u> of works (as specified in Form MW05) and plans of the completed works to the Building Authority within 14 days after completion of works	✓	✓	✓

Legal obligations

BUILDING OWNERS

Pursuant to ss.4A(2) or 9AA(2) of the Buildings Ordinance, if a person who arranges for works to be commenced knowingly fails to appoint the prescribed building professional and/or prescribed registered contractor, that person will be liable on conviction to a fine at level 6 (\$100,000 at present) under Section 40(1AB) of the Buildings Ordinance.

PRESCRIBED REGISTERED CONTRACTORS

Under Section 40(2E) of the Buildings Ordinance, where a Registered Minor Works Contractor or Registered Specialist Contractor certifies or carries out minor works not belonging to the class, type or item for which he is registered, he will be guilty of an offence and liable on conviction (a) to a fine at level 6 and to imprisonment for six 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.

In addition, prescribed registered contractors may be subject to disciplinary proceedings (which may include a fine, suspension or removal from the register) under Section 13(2) of the Buildings Ordinance if he has:

- i. certified minor works in contravention of the Buildings Ordinance;
- ii. supervised or carried out minor works in such a manner that caused injury to a person; or
- iii. supervised or carried out building works (other than minor works) as if they were minor works commenced under the simplified requirements.

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