

11 Frequently Asked Questions

11.1 Public Concerns

Q1: What are the responsibilities of a building owner in conducting “minor works”?

Under the “minor works control system”, building owners may themselves appoint qualified personnel to carry out “minor works” or employ an agent (for example, an interior design firm) to arrange for such appointment. The person (either the owner or the agent, as the case may be) who arranges for the appointment of “prescribed building professionals” or “prescribed registered contractor” will bear legal responsibilities (see 9.1.1 for details).

Q2: What will be the legal status of “minor works” if the carrying out of which does not adhere to the “simplified requirements”, even if an appropriate registered contractor had been appointed? Does “the person who arranged for the works to be carried out” need to bear any liability?

If it can be proved that “the person who arranged for the works to be carried out” has fulfilled his responsibility to appoint a “prescribed registered contractor” to carry out certain “minor works” and the contractor has not complied with the “simplified requirements”, he will not be liable for the act of the contractor. The “minor works” so completed, however, will be unauthorized building works (“UBW”) and the Buildings Department will base on the prevailing enforcement policy to consider if it is necessary to serve removal order on the owner requiring the demolition or alteration of the UBW.

The contractor would have committed an offence under the Building (Minor Works) Regulation and be liable to a maximum fine at level 5 (\$50,000 at present). Depending on the circumstances of the case, the contractor may also be subjected to disciplinary proceedings under the provisions of the Buildings Ordinance. The maximum penalty is removal from the register permanently.

Q3: What is the relationship between “minor works control system” and the Deed of Mutual Covenant (“DMC”) ? Will the new system create an adverse impact on Owners’ Corporations (“OC”) in requiring owners to remove UBW?

There is no direct relationship between the “minor works control system” and DMC. A DMC is a private agreement amongst co-owners of a building. Any building owner should observe his duties and obligations under the DMC of his building, including not to carry out works that contravene the conditions in the DMC, regardless the works may comply with all enactments in Hong Kong.

The power of the OC to enforce against building works or “minor works” that have contravened the DMC will not be affected by the “minor works control system”.

11.2 Industrial Concerns

Q4: What are the responsibilities of building professionals or contractors?

Under the "simplified requirements", contractors can only undertake the relevant class(es) or item(s) of "minor works" for which they have been registered. Building professionals and contractors should comply with the concerned statutory and safety requirements when carrying out "minor works".

Building professionals or contractors may be liable to prosecution if they fail to submit the prescribed plans and details, certificates or supervision plans etc. This is to provide a deterrent to blatant malpractice by building professionals or contractors under the self-certification system of "minor works" since no "prior approval and consent" from the Building Authority are required. Maximum penalty is a fine at level 5 (\$50,000 at present).

Q5: It is noted that some electrical appliances companies provide the service of installation of air-conditioners. How will the "minor works" regime affect them?

After the implementation of the "minor works control system", these companies should either themselves register as a registered contractor or employ / appoint (i.e. as an agent for those who buy the air-conditioning units) a registered contractor for the erection / removal of supporting frames of air-conditioning units.

11.3 Validation Scheme

Q6: Will subsidy / incentive be provided to owners for validating their household structures?

Validation and related works are items eligible for the subsidy of the existing building maintenance assistance schemes.

Q7: What is the legal status of validated UBW? Are they legalized?

They will still be unauthorized building works after validation since at the time when they were constructed, no application to the Building Authority ("BA") was made and the BA cannot grant retrospective approval to such works. However, the BA will not serve an order under section 24 or a notice under section 24C of the Buildings Ordinance in respect of these validated structures on the ground that they have been completed or carried out without "prior approval and consent".

Q8: If an owner does not validate his UBW, what will happen?

The Buildings Department ("BD") will from time to time review the enforcement policy and consider if any adjustment is required, for example, to include those UBW which can be validated under the "Validation Scheme" as actionable items in future large scale operations.

However, BD will encourage owners to validate such UBW, as the procedures are simple and not costly.

11.4 The Control System

Q9: What will happen if a contractor or building professional ceases to complete the "minor works"? What will "the person who arranged for the works to be carried out" need to do?

If the PBP or PRC appointed for "minor works" ceases to complete his job for whatever reason, "the person who arranged for the works to be carried out" has to appoint another PBP or PRC to take up the duties and continue to complete the "minor works".

If it is the PBP who has quitted to supervise the "minor works", he has a duty to notify BA that he is ceased to be appointed. If it is the contractor who has quitted, he needs to notify the PBP or the BA, as the case may be, such cessation of appointment. In addition, the contractor has to certify that the part of the "minor works" carried out by him have been carried out in accordance with the Buildings Ordinance.

Q10: Is the "simplified requirements" the only legal way to carry out "minor works" after the full implementation of the "minor works control system"?

We believe it is desirable to provide "the person who arranged for the works to be carried out" with the flexibility in choosing between the existing "approval and consent" system and the new "minor works control system".

Some people may prefer to have their works approved by the BA, irrespective of these works being "minor works".

11.5 Others

Q11: How can I get access to the record of completed “minor works”?

Access to the completed “minor works” record is available on the internet through the BRAVO system (<http://bravo.bd.gov.hk>) or at the Building Information Centre of the Buildings Department at 13/F, Pioneer Centre, 750 Nathan Road, Mongkok, Kowloon.



Q12: Any safety and environmental suggestions to the building owners who intend to carry out “minor works”?

Apart from following the “simplified requirements” under the MWCS as an alternative to obtaining “prior approval and consent”, building owners are also recommended to take concerted efforts in improving the site safety performance, construction waste management and environmental protection measures by adopting the concept of the “Pay for Safety Scheme” (“PFSS”) and “Pay for Safety and Environment Scheme” (“PFSES”).

Under the PFSS and PFSES, an employer is obliged to pay the contractor upon the contractor’s satisfactory completion of the safety-related items, construction wastes management items, strengthening and improvement of existing environmental protection measures items, as vetted and certified by the employer’s representative, at the pre-priced rates set out in the “Site Safety” and “Environmental Management” sections in the Bills of Quantities or Schedule of Rates if applicable.

Key elements and guidelines to implement the PFSS may be modeled on the “Construction Site Safety Manual” issued by the Development Bureau as posted on its website: http://www.devb.gov.hk/en/publications_and_press_releases/publications/construction_site_safety_manual/index.html, and the Factories and Industrial Undertakings (Safety Management) Regulation (Cap. 59AF). The Real Estate Developers Association of Hong Kong and the Hong Kong Construction Association have also jointly produced four safety management documents on website: <http://www.safetypartnering.com/smscd.htm>, for their Safety Partnering Programme launched in June 2005 to promote private sector companies in pursuit of improved site safety performance. Interested parties may approach the associations direct for details. Adjustments to the guidelines given in the above safety documents may be made taking account of the needs of particular companies, nature of works and specific site conditions.

