

8 Legal Obligations of “Prescribed Registered Contractors”

8.1 Duty to Comply with the Ordinance and Regulations

- 8.1.1** No matter the “minor works” are carried out with approval and consent or under the “simplified requirements”, the “prescribed registered contractor” (“PRC”) is required under sections 9AA(4)(c) and 9AA(6)(c) of the Buildings Ordinance (“BO or the Ordinance”) to comply generally with the Ordinance.
- 8.1.2** Sections 9AA(4)(b) and 9AA(6)(b) of the BO stipulate that if the proposed “minor works” would result in any contravention of the regulations, for example, regulation 7(3) of the Building (Planning) Regulations (Cap. 123F) by having the proposed drying rack projected more than 750mm from the external wall or at a distance of less than 2.5m from the ground, the PRC should not carry out the works but to advise “the person who arranged for the works to be carried out” and/or the “prescribed building professional” (“PBP”).

8.2 Duty to Supervise

- 8.2.1** A PRC who is appointed to carry out “minor works” with approval and consent or under the “simplified requirements” is required respectively under sections 9AA(4)(a) and 9AA(6)(a) of the BO to provide continuous supervision to the carrying out of the works.
- 8.2.2** Section 43 of the Building (Minor Works) Regulation (“B(MW)R or the Regulation”) further requires that the duty to supervise applies to all PRC except “Registered Minor Works Contractor (Individual)” [“RMWC(Ind)”].
- 8.2.3** The purpose of supervision is to ensure that the works are carried out in accordance with the Ordinance and any order made or condition imposed by the Building Authority (“BA”).
- 8.2.4** For Class I or Class II minor works, continuous supervision also serves the purpose to ensure that the works carried out do not diverge or deviate materially from the prescribed plan and details submitted to the BA before the commencement of works.

8.3 Duty to Carry Out Class III Minor Works Personally

- 8.3.1** According to section 44 of the B(MW)R, a RMWC(Ind) is required to carry out the Class III minor works personally.
- 8.3.2** RMWC(Ind) is also required to ensure that his works are carried out in accordance with the Ordinance and any order made or condition imposed by the BA.

8.4 Duty to Appoint Appropriate “Technically Competent Persons” for Class I Minor Works

- 8.4.1** If the submission of a supervision plan (refer to paragraph 4.2.8(d) above) is affirmative for the proposed Class I minor works, the PRC or PBP is required under section 45(1) of the B(MW)R to appoint an appropriate number of “technically competent persons” (“TCP”) to supervise the carrying out of the works.
- 8.4.2** The appointment should be made known to the BA at the time of notification for commencement via the submission of a supervision plan with all particulars, qualifications and experience of the TCP provided in details.
- 8.4.3** If there is any change in the appointment of TCP, the PRC or PBP who made the appointment is required under section 45(2) of the Regulation to notify the BA in writing within 7 days of the change.
- 8.4.4** If the appointment of any TCP is terminated or the proposed TCP is rejected by the BA, the PRC should not commence or should cease the carrying out of the related part of the “minor works” until another TCP is in place according to section 47 of the Regulation.

8.5 Duty on Change / Cessation of Appointment

- 8.5.1** If a PRC is ceased to be appointed, the contractor is required under section 51 of the B(MW)R to deliver within 7 days of the cessation a notice in the specified form (Form MW10) to the AP or direct to the BA respectively for any Class I or Class II minor works regarding the cessation and certify that his works have been carried out in accordance with the Ordinance. Under section 52 of the Regulation, the AP should submit such notice to the BA within 7 days after the receipt of such notice from the contractor.
- 8.5.2** If a PRC is appointed to take over any Class II minors works of a previous contractor, the new contractor is required to submit a notification in the specified form (Form MW07) to the BA within 7 days of the appointment under section 48(4) of the Regulation.

8.6 Duty to Cease Works without PBP

If the PBP is unable to act or ceased to be appointed during the course of any Class I minor works and there is no replacement for his place, the PRC has a duty under section 53(1) of the B(MW)R to cease the carrying out of works until another PBP is appointed in place.

8.7 Duty to Provide Information to the BA

The PRC who has prepared any plans or documents for submission to the BA is required under section 56 of the B(MW)R to provide information of the works when being requested.

8.8 Duty to Keep Record

8.8.1 Apart from the RMWC(Ind), all PRC should keep records of activities and information relating to the supervision of the works according to section 43 of the B(MW)R. The records and information shall be retained for at least 12 months after the completion of the works.

8.8.2 According to section 57 of the Regulation, the PRC for Classes I or II minor works has to keep copies of all submission on site during the course of works. They include the prescribed plans and details and all supervision plans (if any). Copies of such document should be produced upon the request of BA.

8.9 Duties for Carrying Out Minor Works with Approval and Consent

The Building (Administration) Regulations provide for duties on supervision, notification, certification and record keeping for the PRC not carrying out "minor works" under the "simplified requirements".

8.10 Duties to Comply with the Ordinance and Supervise when Carrying Out DEW and EBW

The PRC shall bear similar obligations when they are appointed to carry out the "exempted building works" and "designated exempted works" as mentioned in paragraphs 5.5 and 6.2 above.