

10 Other Legislations

10.1 Allied Regulations of the Buildings Ordinance

- 10.1.1** Note should be taken of the requirements or restrictions provided under the allied regulations of the Buildings Ordinance ("BO") and the related codes of practice ("CoP"), design manuals, practice notes [i.e. "Practice Notes for AP, RSE & RGE" ("PNAP"), "Practice Notes for Registered Contractors" ("PNRC")] and guidelines when carrying out the minor works, especially for Class II and Class III minor works which do not have the involvement of an AP.
- 10.1.2** For instance, regulation 3 of the Building (Construction) Regulations & PNAP APP-53 should be complied with for using the material of acceptable performance requirements / standards / technical criteria. The "Certificate of Accepted Building Materials and Products for Minor Works" and "Schedule of Building Materials and Products for Minor Works" (e.g. in relation to the use of fire resisting products, glazing barrier, cast iron pipes and fittings) should be submitted in accordance with PNAP APP-13 and PNRC 25.
- 10.1.3** Other requirements and considerations for the carrying out of each item of minor works are provided in Chapter 3 for reference. Apart from the requirements or restrictions provided under the BO, there are further provisions in other legislation.

10.2 New Territories Exempted Houses

The "minor works control system" does not apply to any building exempted under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121) as specified in a "certificate of exemption" (i.e. the New Territories exempted houses under the small house policy) according to section 7(1)(a) thereof. Yet any building or drainage works (including "minor works") undertaken or to be undertaken in such exempted buildings must comply in all aspects with the relevant lease conditions. Where approval and/or consents are required under the lease, submissions should be made to the appropriate District Lands Officers before commencement of works.

10.3 Town Planning

- 10.3.1** Most of the territory in Hong Kong is governed by various types of town plans (for example, Outline Zoning Plans ("OZP"), Development Permission Area Plans) issued by the Planning Department for controlling the use, density, viz plot ratio, site coverage, gross floor area and height of the development under the Town Planning Ordinance (Cap. 131).
- 10.3.2** If the "minor works" are carried out in a manner that may affect the building height, in particular, at the roof top such as the supporting structure for radio base station, special care should be attended to check against the corresponding OZP whether there is any height restriction and violation by carrying out of the "minor works".

10.4 Airport Height Restrictions

The Hong Kong Airport (Control of Obstructions) Ordinance (Cap. 301) also provides for controls of heights of buildings in the interest of the safety of aircraft.

10.5 Fire Safety

10.5.1 It should be noted that obstruction and locking of the means of escapes are offences under regulations 14 and 15 of the Fire Services (Fire Hazard Abatement) Regulation (Cap. 95F). When installing metal gates at the entrance of a building at which is the exit of the means of escape:

- (a) any locking device proposed should be readily opened from the inside without the use of a key at all times; and
- (b) if an electric locking device is installed, the device shall be released automatically upon power failure and be fitted with a power on / off switch for testing.

10.5.2 If the “minor works” to be carried out may affect the fire services installations, for example, formation of slab opening, the contractor is advised to check the “Code of Practice for Minimum Fire Service Installations and Equipment” and arrange for the necessary alteration works by a registered Fire Service Installation Contractor.

10.6 Environmental Protection

10.6.1 Sections 6-8 and 8A of the Noise Control Ordinance (Cap. 400) control construction noise from the use of powered mechanical equipment; and the carrying out of certain noisy works in designated areas, between 7 p.m. and 7 a.m. and on general holidays, by Construction Noise Permits. Certain equipment is also subject to restrictions when its use is allowed. Hand-held percussive breakers and air compressors must comply with noise emissions standards and be issued with a noise emission label from the Environmental Protection Department (“EPD”). Contractors may check the “Code of Practice on Good Management Practice to Prevent Violation of the Noise Control Ordinance (Chapter 400) (for Construction Industry)” for guidelines recommended by the EPD.

10.6.2 Sections 16 and 16A of the Waste Disposal Ordinance (Cap. 354) provide for the control on illegal dumping of waste. It is prohibited to dump waste in public places or on Government land, or on private premises without the consent of the owner or occupier. Contractors should arrange for proper disposal of construction waste at the prescribed facilities as provided in regulation 3 of the Waste Disposal (Charges for Disposal of Construction Waste) Regulation (Cap. 354N).

10.6.3 Similar provision of construction waste management is recommended by the Buildings Department (“BD”) in the practice note PNAP ADV-19 “Construction and Demolition Waste”.

10.6.4 Asbestos control provisions in Part IX of the Air Pollution Control Ordinance (Cap. 311) require that building works involving asbestos must be conducted only by registered qualified personnel and under the supervision of a registered consultant. Contractors may make reference to the following statutory environmental standards and guidelines published by the EPD:

- (a) "Code of Practice on Asbestos Control - Asbestos Work Using Full Containment or Mini Containment Method";
- (b) "Code of Practice on Asbestos Control - Asbestos Work Using Glove bag Method";
- (c) "Code of Practice on Asbestos Control - Preparation of Asbestos Investigation Report, Asbestos Management Plan and Asbestos Abatement Plan";
- (d) "Code of Practice on Asbestos Control - Safe Handling of Low Risk Asbestos Containing Material"; and
- (e) "Code of Practice on the Handling, Transportation and Disposal of Asbestos Waste".

10.6.5 Dust mitigation measures complying with the Schedule of the Air Pollution Control (Construction Dust) Regulations (Cap. 311R) should be adopted to minimize the dust emission.

10.6.6 Legal controls also apply to sewerage connections by means of the Water Pollution Control Ordinance (Cap. 358).

10.7 Heritage Conservation

10.7.1 Section 6 of the Antiquities and Monuments Ordinance (Cap. 53) ("AMO") restricts the carrying out of building works in a declared monument or proposed monument.

10.7.2 Buildings of heritage value may be accorded with grading. Although the graded buildings are not under statutory protection under the AMO, demolition works or building works such as alteration or renovation which may affect their heritage value are not encouraged by the Secretary for Development.

10.8 Construction Workers Registration

10.8.1 Under the Construction Workers Registration Ordinance (Cap. 583) ("CWRO"), the works described in Part 1 of Schedule 1 to the Ordinance may only be carried out by registered skilled workers for the relevant designated trades, or by registered construction workers under the instruction and supervision of such registered skilled workers. Practitioners are required to register as "general workers" under the CWRO for carrying out "minor works". When the remaining phase of prohibition under the CWRO is put into force, registration of "skilled workers" according to their specific areas of expertise would be required.

10.8.2 Examples of “minor works” that are designated in Part 1 as mentioned above and have to be carried out by or under instruction and supervision of a registered skilled worker are:

- (a) asbestos abatement
- (b) concrete repair
- (c) curtain wall installation
- (d) demolition
- (e) mechanical excavation
- (f) structural steel welding

10.8.3 It should be noted that the contractors or workers involved in such “minor works”, which are building works under the BO, are still controlled by the CWRO irrespective of the introduction of the minor works control system.

10.9 Construction Site Safety

10.9.1 Under section 6BA of the Factories and Industrial Undertaking Ordinance (Cap. 59), workers should receive recognized safety training and hold a valid certificate (generally known as “Green Card”) before they can be employed to carry out the “minor works”.

10.9.2 Contractors are also required under regulation 38A or 38AA of the Construction Sites (Safety) Regulations (Cap. 59I) (“CS(S)R”) to ensure safety of the construction site, especially when working at height and providing access to and egress from the work place.

10.9.3 Similar provision of precautionary measures is specified by the BD in the practice note PNAP APP-107 “Precautionary Measures for Construction Sites”.

10.9.4 For “minor works” to be carried out at a height of not less than 2m, adequate steps such as working platform should be provided for prevention of falls according to regulation 38B of the CS(S)R.

10.9.5 When excavation associated with “minor works” such as item 1.12 is carried out, fencing should be provided according to regulation 40 of the CS(S)R for prevention of falls into the trench or down from more than 2m.

10.10 Prevention of Bribery

Soliciting or accepting bribes and presents in any form for undertaking the “minor works” is forbidden under Prevention of Bribery Ordinance (Cap. 201).