

Conduct of Registered Building Professionals¹ under the Buildings Ordinance

Statutory Building Control System

The Buildings Ordinance (BO) aims to provide for the planning, design, and construction of buildings and associated works by setting therein the building safety and health standards. Pursuant to the powers under the BO, the Buildings Department (BD) is responsible for enforcing these standards, and building owners are required to appoint and seek advice from registered building professionals if they wish to carry out building works or street works.

2. The registered building professionals have been conferred statutory duties under the BO to supervise the carrying out of the building works or street works, notify BD of any contravention of regulations and comply generally with the BO. While BD has been carrying out curtailed and audit checks on submissions and audit checks on completed building works and street works, it is the responsibility of the registered building professionals to ensure that the works fully comply with the BO, its subsidiary legislation and any other relevant laws, codes of practice and practice notes.

3. The BO and its subsidiary legislation have made provisions for BD to regulate building professionals through various registration systems, prosecution and disciplinary actions. In particular, pursuant to section 7(1A)(b) of the BO, if a registered building professional has been negligent or has misconducted himself in a professional way, the Building Authority (BA) may bring such matters to the notice of a disciplinary board appointed under section 5 of the BO. Before referring such case of negligence or misconduct to the disciplinary board, BA will take into consideration particulars of the case including the seriousness of the negligence or misconduct for the purpose of determining whether the person deserves censure under section 7(1) of the BO.

Examples of Negligence and Misconduct

4. The general principles and some typical examples on negligence and misconduct are provided in Appendix A for reference.

/Reports ...

¹ For the purpose of this practice note, “registered building professionals” refer to Authorized Persons, Registered Structural Engineers, Registered Geotechnical Engineers, Registered Inspectors and Qualified Persons.

Reports on Irregularities

5. All registered building professionals are encouraged to report irregularities observed in the course of their work to the Chief Officer/Technical Services of BD. All such reports will be treated in the strictest confidence.

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Examples of Negligence and Misconduct

1. Compliance with the Buildings Ordinance (BO) and its subsidiary legislation

All registered building professionals should take due diligence to ensure compliance with the building laws. Typical examples of non-compliances are:

- (a) Fails to perform the required supervision and the work diverges or deviates in any material way from that shown in the plan approved by the Building Authority (BA) or a plan relating to minor works;
- (b) Knowingly misrepresents a material fact in any document given to BA; and
- (c) Undertakes professional work but is not qualified to discharge.

2. Integrity

Integrity is a fundamental quality that is expected from registered building professionals. Typical examples of dishonest behaviour include:

- (a) Abets building owners and other persons to carry out unauthorised building works (UBWs) or disregard the requirements under the Minor Works Control System;
- (b) Falsifies information, documents or records relating to building works;
- (c) Advertises skills and knowledge in carrying out UBWs; and
- (d) Has financial or personal interest in connection with any business related to the building works undertaken with a particular client without declaring such interests to the client.

3. Co-operation with the Buildings Department (BD)

Proper administration of the BO relies on the full co-operation of the stakeholders and BD expects all registered building professionals to assist its work to ensure compliance with building safety, health and environment standards. Typical examples of malpractice include:

/(a) ...

- (a) Repeatedly fails to provide factual information, inspection reports or site records that are required by BD without a reasonable explanation;
- (b) Obstructs BD's investigation with a malicious intent to cover up; and
- (c) Repeatedly fails to respond to BD's written warning concerning aspects of deficiencies or non-compliances without a reasonable explanation.

4. Compliance with other laws and regulations

Registered building professionals should comply with all relevant laws and regulations when providing professional services. Typical examples of non-compliances include:

- (a) Repeatedly fails to remind the appointed contractor to observe site safety under the Factories and Industrial Undertakings Ordinance (Chapter 59); and
- (b) Uses BD's logo in the name card, letterhead or publicity materials which violates the intellectual property rights of BD.

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