

# **Building Control (Amendment) Bill**

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**Bill No. 34/2007.**

*Read the first time on 27th August 2007.*

A BILL

*intituled*

An Act to amend the Building Control Act (Chapter 29 of the 1999 Revised Edition) and to make consequential amendments to the Building and Construction Authority Act (Chapter 30A of the 2000 Revised Edition) and the Building Maintenance and Strata Management Act 2004 (Act 47 of 2004).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

### Short title and commencement

1. This Act may be cited as the Building Control (Amendment) Act 2007 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

### 5 Amendment of section 2

2. Section 2 of the Building Control Act (referred to in this Act as the principal Act) is amended —

- (a) by deleting the words “section 16A” in the definition of “accredited checking organisation” in subsection (1) and substituting the words “section 16”;
- 10 (b) by deleting the words “section 6(2)” in the definition of “amendment plans” in subsection (1) and substituting the words “section 5(3)”;
- (c) by inserting, immediately after the definition of “builder” in subsection (1), the following definition:
- 15 “ “builder’s licence” means a general builder’s licence or a specialist builder’s licence granted under Part VA;”;
- (d) by deleting paragraphs (b) and (c) of the definition of “building” in subsection (1) and substituting the following paragraphs:
- 20 “(b) an earth retaining or stabilising structure, whether permanent or temporary;
- (c) a dock, wharf or jetty;
- (ca) a floating structure, not being a boat or vessel, constructed or to be constructed on a flotation system that —
- 25 (i) is or is to be supported by water;
- (ii) is not intended for or useable in navigation; and
- (iii) is or is to be permanently moored;”;
- (e) by deleting the words “and any other kind of building operation” in the definition of “building works” in subsection (1);
- 30 (f) by deleting the words “section 21” in the definition of “certificate of statutory completion” in subsection (1) and substituting the words “section 12”;

(g) by inserting, immediately after the definition of “competent authority” in subsection (1), the following definitions:

““developer”, in relation to any building works, means the person for whom or on whose behalf the building works are carried out;

“earth retaining structure” means any structure, structural system or other means used to maintain the shape of excavation during construction, earth filling or cutting;”;

(h) by inserting, immediately after the definition of “flat” in subsection (1), the following definitions:

““general building works” means any building works other than specialist building works;

“geotechnical aspects”, in relation to any underground building works, means —

(a) an analysis of the geological structure and earth materials of the site of the underground building works and its influence on the underground building works;

(b) an analysis of the ground-water regime and its influence on the wall stability and integrity of the underground building works over time; and

(c) such other applications of earth sciences to and engineering aspects of the underground building works as may be prescribed;

“geotechnical engineer” means a professional engineer who is registered under the Professional Engineers Act (Cap. 253) as a specialist professional engineer in the specialised branch of geotechnical engineering;”;

(i) by inserting, immediately after the definition of “immediate supervision” in subsection (1), the following definition:

““insignificant building works” means such building works as are prescribed under section 4(d);”;

(j) by inserting, immediately after the words “shear cores” in the definition of “key structural elements” in subsection (1), the words “, structural walls, struts, ground anchors”;

(k) by inserting, immediately after the definition of “key structural elements” in subsection (1), the following definition:

“ “large building works” means such building works as are prescribed for the purposes of section 7(1)(b);”;

(l) by inserting, immediately after the definition of “limited common property” in subsection (1), the following definitions:

“ “limited liability partnership” has the same meaning as in section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“major building works” means building works other than minor building works;

“minor building works” means building works (not being underground building works) that are prescribed in the building regulations as building works the plans of which do not require a certification from an accredited checker for the purposes of section 5 or 5A;”;

(m) by deleting paragraph (b) of the definition of “owner” in subsection (1);

(n) by deleting the words “established under the Building Maintenance and Strata Management Act 2004” in paragraph (c) of the definition of “owner” in subsection (1);

(o) by deleting the definition of “person responsible” in subsection (1) and substituting the following definition:

“ “person responsible”, in relation to an exterior feature of a building, means —

(a) the owner of the building which the exterior feature is installed on, forms part of or projects outwards from, unless otherwise provided by paragraph (b), (c) or (d);

(b) subject to paragraph (c), where the exterior feature is part of —

- 5 (i) the common property of any housing estate of the Housing and Development Board — either that Board or the Town Council established under the Town Councils Act (Cap. 329A) for that housing estate, as the Minister shall designate for that exterior feature; or
- 10 (ii) the common property or limited common property of any other land (whether or not comprised in a strata title plan) — the owner thereof, unless otherwise provided by paragraph (d);
- (c) where the exterior feature is a window, grille or shutter that is part of a flat —

  - 15 (i) in the case of a flat in any housing estate of the Housing and Development Board — the owner of the flat as defined in the Housing and Development Act (Cap. 129); or
  - 20 (ii) in the case of any other flat — the owner of that flat; or
- (d) such other person as may be prescribed under section 22C as the person responsible for the exterior feature;”;
- 25 (p) by deleting the definition of “site supervisor” in subsection (1) and substituting the following definitions:

  - ““site supervisor” means a person appointed (whether alone or as a member of a team of site supervisors) under section 10 to be a site supervisor in respect of any small-scale or large building works;
  - 30 “small-scale building works” means such building works as are prescribed for the purposes of section 7(1)(c);
  - 35 “specialist accredited checker” means an accredited checker who is registered under section 16 to undertake the work of an accredited checker as regards the geotechnical aspects of any underground building works;

“specialist builder” means any person who is licensed under Part VA as a specialist builder;

“specialist building works” means the following types of building works:

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- (a) piling works comprising installation and testing of pre-cast reinforced concrete or pre-stressed concrete piles, steel piles, bored cast-in-place reinforced concrete piles, caissons and special pile types like micro-piles, barrettes piles and composite piles, embedded retaining wall piles like diaphragm walls, contiguous bored piles or secant piles;
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- (b) ground support and stabilisation works, including installation and testing of ground anchors, soil nails, rock bolts, ground treatment like chemical grouting and jet-grouting, reinforced-earth, shotcreting and tunnel supports;
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- (c) site investigation work comprising field investigations, exploratory drilling or boring, logging, sampling, coring, in-situ plate-loading tests, pressure meter tests, penetration tests, vane shear tests, probing tests, permeability tests, geological mapping and geophysical surveys, and installation and monitoring of instruments measuring forces, deformation, displacements, pore and earth pressures, and ground-water levels;
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- (d) structural steelwork comprising —
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- (i) fabrication of structural elements;
- (ii) erection work like site cutting, site welding and site bolting; and
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- (iii) installation of steel supports for underground building works;
- (e) pre-cast concrete work comprising fabrication of pre-cast structural elements;
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- (f) in-situ post-tensioning work comprising setting out of tendon profiles, laying of conduits,

anchorages and bursting reinforcement, pulling or stressing of cables, pressure grouting of conduits; and

5 (g) such other building works as the Minister may, by order published in the *Gazette*, declare to be specialist building works;”;

(q) by deleting the words “slabs, roof trusses” in the definition of “structural elements” in subsection (1) and substituting the words “structural walls, struts, ground anchors, slabs, trusses”;

10 (r) by deleting the definition of “temporary building” in subsection (1) and substituting the following definition:

““temporary building” means —

(a) any building or structure constructed of short-lived materials; or

15 (b) any other building or structure permitted to be used by the competent authority or Commissioner of Building Control for a period not exceeding 36 months, or such other period as may be prescribed (if prescribed) in the building regulations,

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but does not include any bridge, any decking for a bridge, or any earth retaining structure;”;

(s) by deleting the words “section 21(2)” in the definition of “temporary occupation permit” in subsection (1) and substituting the words “section 12(3)”;

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(t) by inserting, immediately after the definition of “unauthorised” in subsection (1), the following definitions:

““underground building works” means any of the following building works, the carrying out of which starts on or after the date to be specified by the Minister by order in the *Gazette*:

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(a) any excavation or other building works to make —

(i) a tunnel with a diameter, width or height of more than 2 metres; or

(ii) a caisson, cofferdam, trench, ditch, shaft or well with a depth of more than 6 metres;

(b) any building works for constructing, altering or repairing any earth retaining structure in or for a trench, ditch, shaft or well with a depth or height of more than 6 metres; or

(c) such type of foundation works as the Minister may prescribe in the building regulations for buildings of 30 or more storeys;

“value”, in relation to any building works, means —

(a) for any underground building works, the total cost to be expended in carrying out those building works estimated at the time of, and contained in, the application under section 5 for approval of the plans of those building works, including any goods and services tax payable in relation to the supply of the work; or

(b) for any other building works, the total cost to be expended in carrying out the building works (including the foundations, basements, structural frame, finishes and the installation of building services) estimated at the time of, and contained in, the application under section 5 for approval of the plans of the building works, including any goods and services tax payable in relation to the supply of the work;” and

(u) by inserting, immediately after subsection (2), the following subsections:

“(3) The Minister may, by notification published in the *Gazette*, vary any of the following referred to in the definition of “underground building works” in subsection (1):

(a) the diameter, width or height of any tunnel;

(b) the depth of any caisson, cofferdam, trench, ditch, shaft or well;

(c) the depth or height of any earth retaining structure in or for a trench, ditch, shaft or well; or



(d) the number of storeys in a building.

(4) Any reference in this Act to a person being an associate of a developer or builder of building works shall be a reference to any of the following persons:

- 5 (a) any partner of the developer or builder;
- (b) any body corporate in which the developer or builder is a substantial shareholder as defined in section 81 of the Companies Act (Cap. 50);
- (c) if the developer or builder is a body corporate —
  - 10 (i) a person who is a substantial shareholder of that body corporate as defined in section 81 of the Companies Act; or
  - (ii) a director, secretary or similar executive officer of the body corporate;
- 15 (d) any body corporate of which the developer or builder is a director, secretary or similar executive officer;
- (e) where the developer or builder is a trustee — a beneficiary or an object of the discretionary trust;
- 20 (f) any employer or employee of the developer or builder.

(5) Where —

- 25 (a) by or under any provision of this Act or any subsidiary legislation made thereunder an act or thing is required or directed to be done within a particular period or before a particular time;
- (b) failure to do that act or thing within the period or before the time referred to in paragraph (a) constitutes an offence; and
- 30 (c) that act or thing is not done within the period or before the time referred to in paragraph (a),

the obligation to do that act or thing shall continue, notwithstanding that that period has expired or that time has passed, until that act or thing is done; and if the failure to do that act or thing within the period or before the time referred to

in paragraph (a) is an offence, a person shall be guilty of a separate offence in respect of each day (including the day of a conviction for any such offence or any later day) or part thereof during which the person continues to refuse or fail to comply with that requirement or direction.”.

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### **Repeal and re-enactment of Part II**

3. Part II of the principal Act is repealed and the following Part substituted therefor:

#### **“PART II**

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#### **CONTROL OF BUILDING WORKS**

##### *Division 1 — Application*

#### **Application to building works**

4. Except as otherwise expressly provided, this Part shall apply to all building works except —

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(a) building works for a temporary building or the occupation of any such building;

(b) retrofitting of exterior features referred to in Part III;

(c) building works that are exempted under section 30, or are in relation to a building that is so exempted; and

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(d) building works that are prescribed in the building regulations to be insignificant building works.

##### *Division 2 — Building plan approvals and permits*

#### **Application for approval of plans of building works**

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5.—(1) An application for approval of the plans of any building works shall be made to the Commissioner of Building Control by the developer of those building works.

(2) An application for approval of the plans of any building works shall be accompanied by —

(a) the application fee prescribed (if any);

- (b) the names and particulars of —
- (i) the appropriate qualified person whom the developer or builder of the building works has appointed to prepare the plans of those building works; and
  - (ii) where the building works comprise wholly or partly of any underground building works, the geotechnical engineer whom the developer or builder of the building works has appointed to prepare the plans relating to the geotechnical aspects of those underground building works;
- (c) the plans of the building works prepared in accordance with the building regulations;
- (d) in the case of major building works, a certificate from the following accredited checkers:
- (i) a certificate by an accredited checker stating that he has checked the plans relating to those building works and that, to the best of his knowledge and belief, the plans so checked do not show any inadequacy in the key structural elements of the building to be erected or affected by those building works; and
  - (ii) where the building works comprise wholly or partly of any underground building works, another certificate by a specialist accredited checker (who may or may not be the same accredited checker referred to in subparagraph (i)) stating that the specialist accredited checker has checked the geotechnical aspects of those underground building works and that, to the best of his knowledge and belief, there is no inadequacy in the geotechnical aspects relating to those underground building works;
- (e) the certificate (in the form prescribed) signed by the qualified person appointed to prepare the plans of those building works, certifying that he prepared those plans; and
- (f) such other documents as may be prescribed in the building regulations.

(3) Upon receiving an application under subsection (1) for the approval of plans of any building works, the Commissioner of Building Control shall consider the application and may —

(a) approve any one or more of the plans submitted to him, with or without conditions;

(b) direct the developer (in writing) to comply with such requirements as the Commissioner of Building Control may specify for the purpose of ensuring that all or any of the plans submitted to him comply with the provisions of this Act and the building regulations and to re-submit those plans for his approval, within such period as may be specified in the direction; or

(c) disapprove any one or more of the plans submitted to him.

(4) If the direction given by the Commissioner of Building Control under subsection (3)(b) is not complied with within the period specified in that direction, or such further period as may be extended by the Commissioner of Building Control, the application for approval of those plans shall, at the end of that period, be deemed to be disapproved by the Commissioner of Building Control.

(5) The Commissioner of Building Control may, without checking the plans and design calculations of any building works, approve those plans on the basis of —

(a) where the plans relate to any major building works or underground building works, the certificate of an accredited checker or specialist accredited checker or both, as the case may be, certifying that —

(i) the accredited checker has checked the plans relating to the major building works and that, to the best of his knowledge and belief, the plans so checked do not show any inadequacy in the key structural elements of the building to be erected or affected by those major building works; and

(ii) where the building works comprise wholly or partly of any underground building works, the specialist accredited checker has checked the geotechnical aspects of the underground building works and that, to the best

of his knowledge and belief, there is no inadequacy in the geotechnical aspects relating to those underground building works; or

(b) in any other case, the certificate (in the form prescribed) signed by the qualified person appointed to prepare the plans of those building works, certifying that he prepared those plans.

(6) Notwithstanding subsection (5), the Commissioner of Building Control may, in his discretion, carry out random checks on any of the detailed structural plans, design calculations or geotechnical aspects of any building works before approving those plans under that subsection.

### **Deviations from approved building plans**

**5A.**—(1) Where the plans of any building works or proposed building works have been approved by the Commissioner of Building Control under section 5(3)(a) and the developer of the building works intends to depart or deviate from the plans approved, the developer shall apply to the Commissioner of Building Control for his approval of the amended plans showing the proposed departure or deviation.

(2) An application under subsection (1) shall be accompanied by —

(a) the amended plans of the building works prepared in accordance with the building regulations by the appropriate qualified person referred to in section 5(2)(b)(i) or (ii) or both, as the case may be;

(b) in the case of major building works, a certificate from the following accredited checkers:

(i) a certificate by an accredited checker stating that he has checked the amended plans relating to those building works and that, to the best of his knowledge and belief, the amended plans so checked do not show any inadequacy in the key structural elements of the building to be erected or affected by those building works; and

(ii) where the building works comprise wholly or partly of any underground building works, a certificate by a specialist accredited checker (who may or may not be

the same accredited checker referred to in sub-paragraph (i)) stating that the specialist accredited checker has checked the amended geotechnical aspects of the underground building works and that, to the best of his knowledge and belief, there is no inadequacy in the geotechnical aspects relating to those underground building works; and

(c) the certificate (in the form prescribed) signed by the qualified person appointed to prepare the amended plans of those building works, certifying that he prepared those amended plans.

(3) The first approval granted under section 5 of any plans of building works shall end and be superseded to the extent that the amended plans relating to those same building works are approved under this section (whether or not the approval also relates to other building works).

### **Lapsing or revocation of building plans approval**

**5B.**—(1) Any approval granted under section 5 or 5A in respect of any building works shall automatically lapse —

(a) when any written permission referred to in section 12 of the Planning Act (Cap. 232) that has been granted in respect of any development of land involving the building works lapses pursuant to section 20 of that Act;

(b) if no such written permission has been granted in respect of those building works, at the end of a continuous period of 6 months during which the building works are suspended; or

(c) if the building works do not start within the period prescribed in the building regulations.

(2) The Commissioner of Building Control may, at any time, revoke any approval granted in respect of any building works under section 5 or 5A if he is satisfied that any information given in the application for approval or any document submitted to the Commissioner of Building Control in connection with the application for approval is false in a material particular.

(3) Where the Commissioner of Building Control has under subsection (2) revoked any approval granted under section 5 or 5A in

respect of any plans of building works, any permit, certificate of statutory completion and temporary occupation permit granted in respect of those building works shall also automatically lapse.

**Permit to carry out structural works**

5       **6.**—(1) Subject to the provisions of this Act, an application for a permit to carry out structural works in any building works may be made at any time to the Commissioner of Building Control by —

- (a) the developer of those building works;
- 10       (b) the builder whom the developer has appointed in respect of those building works; and
- (c) the qualified person whom the developer or builder has appointed under section 8 or 11 to supervise those building works.

15       (2) An application for a permit to carry out structural works in any building works shall be accompanied by —

- (a) a notification, signed by the developer of the building works, stating the date on which those building works are to start;
- (b) the names and particulars of —
  - 20           (i) the qualified person appointed under section 8 or 11 to supervise the carrying out of those building works; and
  - (ii) where the building works comprise wholly or partly of any underground building works, the geotechnical engineer who is appointed under section 8 or 11 to supervise the geotechnical aspects of those underground building works;
- 25       (c) the following documents signed by the builder:
  - (i) an acceptance of his appointment in respect of the structural works; and
  - 30           (ii) an undertaking of responsibility for strict compliance with the provisions of this Act and the building regulations;

(d) the following documents signed by the qualified person or persons referred to in paragraph (b):

(i) a confirmation of his appointment in respect of the building works; and

5 (ii) a notice of the names and particulars of the site supervisor, or all members of the team of site supervisors, he has appointed in respect of the structural works in accordance with section 10(1) or (2); and

10 (e) such other documents as the Commissioner of Building Control may require.

(3) The Commissioner of Building Control may, on an application made under subsection (1), grant a permit to carry out structural works in any building works jointly to —

(a) the developer of those building works;

15 (b) the builder whom the developer has appointed in respect of those building works; and

(c) the qualified person whom the developer or builder has appointed under section 8 or 11 to supervise those building works,

20 subject to such terms and conditions as he thinks fit to impose.

(4) The Commissioner of Building Control may revoke a permit to carry out any structural works if the structural works, if started, are suspended for a continuous period of more than 3 months.

25 (5) Any permit to carry out structural works in any building works granted under this section shall not be transferable, and shall automatically lapse if any of the following permit holders ceases to be:

(a) the developer of those building works;

30 (b) the builder whom the developer has appointed in respect of those building works; or

(c) the qualified person whom the developer or builder has appointed under section 8 or 11 to supervise those building works.



### **Modification or waiver of building regulations**

5 **6A.**—(1) The Commissioner of Building Control may, on receipt of an application in relation to any particular building works, advertisements, signboards or skysigns, modify or waive, subject to such terms and conditions as he may impose, any of the requirements of the building regulations.

(2) Every application under subsection (1) shall —

- 10 (a) be made to the Commissioner of Building Control by or on behalf of the developer of the building works, advertisements, signboards or skysigns;
- (b) be in such form as may be required by the Commissioner of Building Control;
- (c) state the nature and extent of and the reasons for the proposed modification or waiver of those requirements; and
- 15 (d) be accompanied by such plans and other particulars as may be prescribed in the building regulations.

### *Division 3 — Building works*

#### **Supervision of building works**

20 **7.**—(1) Except as otherwise provided in this Act or the building regulations —

- (a) all building works shall be carried out under the supervision of an appropriate qualified person;
- 25 (b) the structural elements of all such building works as are prescribed in the building regulations (referred to in this Act as large building works) shall be carried out under the full-time supervision of a site supervisor, or a team of site supervisors, working under an appropriate qualified person's control and direction; and
- 30 (c) concreting, piling, pre-stressing, tightening of high-friction grip bolts or other critical structural works of all such building works as are prescribed in the building regulations (referred to in this Act as small-scale building works) shall be carried out under the immediate supervision of —

- (i) an appropriate qualified person; or
- (ii) a site supervisor, or a team of site supervisors, working under an appropriate qualified person's control and direction.

5 (2) Except as otherwise provided in this Act or the building regulations, no person shall commence or carry out the geotechnical aspects of any underground building works except —

(a) under the supervision of the qualified person appointed under section 8(1)(d)(ii) or 11(1)(d)(ii) or (iii)(B); or

10 (b) under the full-time supervision of a site supervisor or a team of site supervisors appointed under section 10 by the qualified person in paragraph (a) and working under his control and direction.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 2 years or to both; and

20 (b) in respect of a continuing contravention, to an additional fine not exceeding \$1,000 for each day or part thereof the contravention continues,

and if the contravention continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding \$2,000 for every day or part thereof during which the contravention continues after conviction.

### **Tests of and in connection with building works**

30 **7A.**—(1) Subject to subsection (3), the qualified person appointed to supervise the carrying out of any building works shall carry out or cause to be carried out such tests of or in connection with the building works as may be prescribed in the building regulations or required by the Commissioner of Building Control.

(2) Any tests prescribed, or required to be carried out, under subsection (1) shall be carried out in such manner and at such places and times as may be prescribed in the building regulations.

(3) The Commissioner of Building Control may, on an application in relation to any particular building works, give a direction waiving the operation of subsection (1) in relation to those building works if he is satisfied that the operation of that subsection in relation to that particular case would be unreasonable.

(4) An application under subsection (3) shall be accompanied by such particulars as may be prescribed in the building regulations.

(5) If a qualified person fails to comply with subsection (1), the Commissioner of Building Control may, by order in writing served on the qualified person, every site supervisor, and the builder and specialist builder (if any) of the building works and the developer, require the building works to cease until the order is withdrawn.

(6) Without prejudice to the right of the Commissioner of Building Control to exercise his power under subsection (5), any qualified person who fails to comply with any requirement under subsection (1) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both; and

(b) in respect of a continuing contravention, to an additional fine not exceeding \$1,000 for each day or part thereof the qualified person fails to comply with the requirement,

and if the failure to comply continues after the conviction, the qualified person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding \$2,000 for every day or part thereof during which the failure to comply continues after conviction.

(7) If any person on whom an order made under subsection (5) is served fails to comply with the order, he shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both; and

(b) in respect of a continuing contravention, to an additional fine not exceeding \$500 for each day or part thereof the person fails to comply with the requirement,

and if the failure to comply continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of

this further offence to a further fine not exceeding \$1,000 for every day or part thereof during which the failure to comply continues after conviction.

*Division 4 — Duties of developers, qualified persons,  
site supervisors and builders*

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**Duties of developers**

**8.—(1)** Subject to the provisions of this Act, every developer of building works shall appoint —

- 10 (a) an appropriate qualified person to prepare the plans of the building works in accordance with this Act if no such person is appointed by the builder in paragraph (c);
- (b) an appropriate qualified person to supervise the carrying out of those building works if no such person is appointed by the builder in paragraph (c);
- 15 (c) a builder to carry out those building works;
- (d) where the building works comprise wholly or partly of any underground building works and if the builder in paragraph (c) does not appoint any of the following:
  - 20 (i) a qualified person who is a geotechnical engineer to prepare the plans relating to the geotechnical aspects of the building works, who may or may not be the same qualified person referred to in paragraph (a); and
  - (ii) a qualified person who is a geotechnical engineer to supervise the geotechnical aspects of those building works, who may or may not be the same qualified person referred to in paragraph (b);
- 25 (e) in respect of the detailed structural plans and design calculations of major building works —
  - 30 (i) an accredited checker who is either a director, partner, member or an employee of an accredited checking organisation, if the value of the building works exceeds the prescribed limit in the building regulations; or

- 5 (ii) an accredited checker (whether or not a director, partner, member or an employee of an accredited checking organisation), if the value of the building works does not exceed the prescribed limit referred to in sub-paragraph (i); and
- (f) where the building works comprise wholly or partly of any underground building works —
- 10 (i) a specialist accredited checker in respect of the geotechnical aspects of those building works; and
- (ii) in addition to appointing a builder under paragraph (c), a specialist builder to monitor instruments measuring pore pressures for saturated and unsaturated levels, ground-water levels, ground movements or building movements and to measure forces, deformations or displacements.
- 15 (2) If any qualified person, builder, specialist builder, accredited checker or specialist accredited checker appointed under subsection (1) in respect of building works becomes unwilling to act or unable, whether by reason of the termination of his appointment or for any other reason, to carry out his respective duties under this Act, the developer shall —
- 20 (a) without delay appoint under subsection (1) another qualified person, builder, specialist builder, accredited checker or specialist accredited checker, as the case may be, in his place; and
- 25 (b) within 7 days thereafter, notify the Commissioner of Building Control of that substitute appointment.
- (3) The developer of any building works shall notify the Commissioner of Building Control of any contravention of this Act or the building regulations relating to those building works of which the developer knows or ought reasonably to know.
- 30 (4) Any developer of building works who, without reasonable excuse, fails to comply with subsection (2)(b) shall be guilty of an offence.
- 35 (5) Any developer who contravenes subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding

\$20,000 or to imprisonment for a term not exceeding 12 months or to both.

(6) It shall be a defence in any prosecution for a contravention of subsection (3) for the person charged to prove to the satisfaction of the court that he did not know and could not reasonably have discovered the contravention referred to in the charge.

### **Duties of qualified persons**

**9.**—(1) Every qualified person who is appointed under section 8 or 11 to prepare the plans of any building works shall —

(a) take all reasonable steps and exercise due diligence to ensure that the building works are designed in accordance with —

(i) the provisions of this Act; and

(ii) subject to section 6A, the requirements prescribed in the building regulations;

(b) notify the Commissioner of Building Control of any contravention of this Act or the building regulations in relation to those building works of which the qualified person knows or ought reasonably to know; and

(c) supply a copy of every plan of the building works approved by the Commissioner of Building Control to —

(i) the site supervisor or the team of site supervisors, as the case may be, appointed under section 10;

(ii) the builder of those building works; and

(iii) the qualified person appointed under section 8 or 11 to supervise those building works.

(2) For the purpose of subsection (1)(a) —

(a) the plans of any building works that are prepared in accordance with the acceptable solutions as set out in the Approved Document issued by the Commissioner of Building Control in respect of such building works shall be deemed to comply with the objectives and performance requirements that are prescribed by the building regulations in respect of such building works; and

(b) where the qualified person appointed to prepare the plans of any building works intends to utilise any alternative solution (that is to say, a solution that entails the use of any design, material or construction method that differs completely or partially from those in the acceptable solution), he shall —

5

(i) take all reasonable steps and exercise due diligence to ensure that the alternative solution satisfies the objectives and performance requirements that are prescribed by the building regulations in respect of such building works; and

10

(ii) obtain the certification of another qualified person, being a specialist in the application of such an alternative solution, that the alternative solution satisfies the objectives and performance requirements that are prescribed by the building regulations in respect of such building works.

15

(3) No qualified person shall issue any certification for the purposes of subsection (2)(b)(ii) unless he has taken all reasonable steps and exercised due diligence to ensure that the alternative solution in respect of which his certification is being sought satisfies the objectives and performance requirements that are prescribed by the building regulations in respect of the building works for which the alternative solution is to be applied.

20

(4) Every qualified person who is appointed under section 8 or 11 to supervise the carrying out of any building works, or the geotechnical aspects of any underground building works, shall —

25

(a) take all reasonable steps and exercise due diligence in supervising and inspecting the building works or underground building works, as the case may be, to ensure that those building works are being carried out in accordance with —

30

(i) the provisions of this Act;

(ii) subject to section 6A, the building regulations;

(iii) the relevant plans approved by the Commissioner of Building Control; and

35

(iv) any terms and conditions imposed by the Commissioner of Building Control;

(b) in the absence of a site supervisor, take all reasonable steps and exercise due diligence in giving immediate supervision to the carrying out of concreting, piling, pre-stressing, tightening of high-friction grip bolts or other critical structural works of the building works to ensure that such critical structural works of the building works are being carried out in accordance with —

(i) the provisions of this Act;

(ii) subject to section 6A, the building regulations;

(iii) the relevant plans approved by the Commissioner of Building Control; and

(iv) any terms and conditions imposed by the Commissioner of Building Control;

(c) notify the Commissioner of Building Control of any contravention of this Act or the building regulations in relation to those building works of which the qualified person knows or ought reasonably to know;

(d) keep and maintain at the premises on which building works are carried out such documents, books and records as may be prescribed in the building regulations;

(e) submit to the Commissioner of Building Control at the prescribed times such reports and certificates as may be prescribed in the building regulations; and

(f) notify the Commissioner of Building Control if the building works have been suspended for a period of more than 3 months.

(5) If any qualified person who is appointed under section 8 or 11 —

(a) to prepare the plans of any building works; or

(b) to supervise the carrying out of any building works, or the geotechnical aspects of any underground building works,



becomes unwilling or unable, whether by reason of the termination of his appointment or for any other reason, to carry out his duties under this Act, the qualified person shall, within 14 days of his ceasing to carry out his duties, notify the Commissioner of Building Control and the builder of those building works of that fact.

(6) If any site supervisor appointed under section 10 in respect of any building works becomes unwilling or unable, whether by reason of the termination of his appointment or for any other reason, to carry out his duties under section 10(5), the qualified person appointed under section 8 or 11 to supervise the carrying out of the building works shall —

- (a) appoint another site supervisor in his place; and
- (b) within 7 days thereafter, notify the Commissioner of Building Control of that substitute appointment.

(7) A qualified person who is appointed under section 8 or 11 to supervise the carrying out of any building works, or the geotechnical aspects of any underground building works, shall not supervise —

- (a) any works relating to the structural elements of any major building works; or
- (b) the geotechnical aspects of the underground building works, if he, or any nominee of his, is a partner, an officer or an employee of —
  - (i) the developer of those building works;
  - (ii) the builder of those building works; or
  - (iii) an associate of the developer or builder referred to in paragraph (i) or (ii).

(8) If any qualified person appointed under section 8 or 11 to prepare the plans of any building works contravenes subsection (1)(a), (2)(b) or (3), he shall be guilty of an offence and shall be liable on conviction —

- (a) to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 2 years or to both; and

(b) in respect of a continuing contravention, to an additional fine not exceeding \$1,000 for each day or part thereof the qualified person fails to comply with the requirement,

and if the contravention continues after the conviction, the qualified person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding \$2,000 for every day or part thereof during which the contravention continues after conviction.

(9) If any qualified person appointed under section 8 or 11 contravenes subsection (4)(a) or (b), he shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 2 years or to both; and

(b) in respect of a continuing contravention, to an additional fine not exceeding \$1,000 for each day or part thereof the qualified person fails to comply with the requirement,

and if the contravention continues after the conviction, the qualified person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding \$2,000 for every day or part thereof during which the contravention continues after conviction.

(10) If —

(a) any qualified person appointed under section 8 or 11 to prepare the plans of any building works contravenes subsection (1)(b); or

(b) any qualified person appointed under section 8 or 11 contravenes subsection (4)(c), (d) or (e) or (7),

the qualified person shall be guilty of an offence and shall be liable on conviction —

(i) to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both; and

(ii) in respect of a continuing contravention, to an additional fine not exceeding \$1,000 for each day or part thereof the qualified person contravenes subsection (1)(b) or (4)(c), (d) or (e), as the case may be,

and if the contravention continues after the conviction, the qualified person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding \$2,000 for every day or part thereof during which the contravention continues after conviction.

(11) If —

(a) any qualified person appointed under section 8 or 11 to prepare the plans of any building works contravenes subsection (5); or

(b) any qualified person appointed under section 8 or 11 contravenes subsection (4)(f) or (5),

the qualified person shall be guilty of an offence.

(12) It shall be a defence in any prosecution for a contravention of subsection (1)(b) or (4)(c) for the person charged to prove to the satisfaction of the court that he did not know and could not reasonably have discovered the contravention referred to in the charge.

### **Duties of site supervisors**

**10.**—(1) The appropriate qualified person appointed under section 8 or 11 to supervise the carrying out of any large building works shall appoint the following site supervisors in respect of the structural elements of the large building works:

(a) a team of site supervisors comprising not less than such number of persons as may be prescribed in relation to the value of those large building works; or

(b) at least one site supervisor, in any other case.

(2) The appropriate qualified person appointed under section 8 or 11 to supervise the carrying out of any small-scale building works shall appoint at least one site supervisor, in respect of the critical structural elements of the small-scale building works.

(3) No person shall be appointed under this section as a site supervisor in respect of any building works for the purposes of this Act unless —

(a) he possesses the initial practical experience and qualifications prescribed; and

(b) he remains accredited with the Building and Construction Authority or a prescribed organisation.

5 (4) No site supervisor shall supervise any structural works of any major building works if he, or any nominee of his, is a partner, an officer or an employee of —

(a) the developer or builder of those building works; or

10 (b) any associate of the developer or builder of those building works.

(5) Every site supervisor appointed under this section in respect of any building works shall take all reasonable steps and exercise due diligence in giving —

15 (a) in the case of large building works — full-time supervision to the carrying out of the structural elements of the building works; and

(b) in the case of small-scale building works — immediate supervision to the carrying out of the critical structural elements of the building works,

20 to ensure that the structural elements or critical structural elements, as the case may be, of the building works in question are carried out in accordance with the plans of the building works supplied to him in accordance with section 9(1)(c) by a qualified person, and with any terms and conditions imposed by the Commissioner of Building Control.

25 (6) If a site supervisor appointed in respect of any building works becomes unwilling or unable, whether by reason of the termination of his appointment or for any other reason, to carry out his duties under subsection (5), the site supervisor shall, within 7 days of his ceasing to carry out such duties, notify the Commissioner of Building Control of that fact.

30 (7) Any site supervisor who contravenes subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 35 2 years or to both.

(8) Any site supervisor who contravenes subsection (5) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both; and

5 (b) in respect of a continuing contravention, to an additional fine not exceeding \$1,000 for each day or part thereof the site supervisor fails to comply with the requirement,

and if the contravention continues after the conviction, the site supervisor shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding \$2,000 for every day or part thereof during which the contravention continues after conviction.

(9) Any site supervisor or qualified person who, without reasonable excuse, contravenes subsection (6) shall be guilty of an offence.

#### 15 **Duties of builders**

**11.—**(1) A builder undertaking any building works shall —

(a) ensure that the building works are carried out in accordance with —

- (i) the provisions of this Act;
- 20 (ii) subject to section 6A, the building regulations;
- (iii) the relevant plans approved by the Commissioner of Building Control and supplied to him by a qualified person under section 9(1)(c); and
- 25 (iv) any terms and conditions imposed by the Commissioner of Building Control in accordance with the provisions of this Act and, subject to section 6A, the building regulations;

(b) notify the Commissioner of Building Control of any contravention of this Act or the building regulations relating to those building works of which the builder knows or ought reasonably to know;

30 (c) keep at the premises on which the building works are carried out, and make available on request (at a reasonable time) by any specialist builder appointed in respect of specialist

building works comprised in those same building works, all plans of those building works approved by the Commissioner of Building Control and supplied to him by a qualified person under section 9(1)(c);

- 5 (d) where no such qualified person has been appointed by the developer in respect of those building works, appoint —
- (i) an appropriate qualified person to prepare the plans of the building works;
  - 10 (ii) an appropriate qualified person to supervise the carrying out of those building works; and
  - (iii) where the building works comprise wholly or partly of any underground building works —
    - (A) a geotechnical engineer (who may or may not be the same person referred to in sub-paragraph (i))
    - 15 to prepare the plans relating to the geotechnical aspects of the underground building works; and
    - (B) a geotechnical engineer (who may or may not be the same person referred to in sub-paragraph (ii))
    - 20 to supervise the geotechnical aspects of the underground building works;
  - (e) have an adequate number of construction supervisors working under his direction to assist the builder to ensure that paragraph (a) is complied with;
  - 25 (f) within 7 days of the completion of the building works, certify that the new building has been erected or the building works have been carried out in accordance with the provisions of this Act and, subject to section 6A, the building regulations and deliver that certificate to the Commissioner of Building Control;
  - 30 (g) notify the Commissioner of Building Control of the appointment and termination of appointment of any specialist builder appointed by the builder in respect of specialist building works comprised in those same building works; and
  - 35 (h) comply with such other duties as may be prescribed in the building regulations.

(2) A specialist builder undertaking any specialist building works shall —

(a) ensure that the specialist building works are carried out in accordance with —

- 5 (i) the provisions of this Act;
- (ii) subject to section 6A, the building regulations;
- (iii) the relevant plans approved by the Commissioner of Building Control; and
- 10 (iv) any terms and conditions imposed by the Commissioner of Building Control in accordance with the provisions of this Act and, subject to section 6A, the building regulations;

15 (b) notify the Commissioner of Building Control of any contravention of this Act or the building regulations relating to those specialist building works, being a contravention which the specialist builder knows or ought reasonably to know; and

(c) comply with such other duties as may be prescribed in the building regulations.

20 (3) Without prejudice to subsection (2), a specialist builder who is appointed by the developer under section 8(1)(f)(ii) in respect of any building works shall not carry out any work monitoring instruments measuring pore pressures for saturated and unsaturated levels, ground-water levels, ground movements or building movements and  
25 to measure forces, deformations or displacements in connection with those building works if he, or any nominee of his, is a partner, an officer or an employee of —

- (a) the developer or builder of those building works; or
- 30 (b) any associate of the developer or builder of those building works.

(4) If any builder or specialist builder appointed under this section or section 8 in respect of building works becomes unwilling to act or unable, whether by reason of the termination of his appointment or for any other reason, to carry out his duties under subsection (1) or  
35 (2), the builder or specialist builder, as the case may be, shall, within

14 days of his ceasing to carry out his duties, notify the Commissioner of Building Control of that fact.

(5) If any qualified person who is appointed under section 8 or this section —

- 5           (a) to prepare the plans of any building works; or  
              (b) to supervise any building works,

10 becomes unwilling or unable, whether by reason of the termination of his appointment or for any other reason, to carry out his duties under this Act, the builder and specialist builder of those building works shall cease or shall not commence carrying out the building works until the developer or the builder appoints another appropriate qualified person in respect of those building works.

15 (6) Any builder or specialist builder who contravenes subsection (1)(a), (2)(a) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 2 years or to both.

(7) If —

- 20           (a) a builder contravenes subsection (1)(b) or (c); or  
              (b) a specialist builder contravenes subsection (2)(b),  
 the builder or specialist builder, as the case may be, shall be guilty of an offence and shall be liable on conviction —
- 25           (i) to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both; and  
              (ii) in respect of a continuing contravention, to an additional fine not exceeding \$1,000 for each day or part thereof the builder or specialist builder contravenes subsection (1)(b) or (c) or (2)(b),

30 and if the contravention continues after the conviction, the builder or specialist builder, as the case may be, shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding \$2,000 for every day or part thereof during which the contravention continues after conviction.

(8) It shall be a defence in any prosecution for a contravention of subsection (1)(b) or (2)(b) for the builder or specialist builder charged



to prove to the satisfaction of the court that he did not know nor could reasonably have discovered the contravention or non-compliance referred to in the charge.

(9) If —

- 5           (a) a builder, without reasonable excuse, contravenes subsection (1)(d), (e), (f), (g) or (h) or (4); or
- (b) a specialist builder, without reasonable excuse, contravenes subsection (2)(c) or (4),

10 the builder or specialist builder, as the case may be, shall be guilty of an offence.

(10) Any builder or specialist builder who contravenes subsection (5) shall be guilty of an offence and shall be liable on conviction —

- (a) to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 2 years or to both; and
- 15           (b) in respect of a continuing contravention, to an additional fine not exceeding \$1,000 for each day or part thereof the contravention continues,

20 and if the contravention continues after the conviction, the builder or specialist builder, as the case may be, shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding \$2,000 for every day or part thereof during which the contravention continues after conviction.

#### *Division 5 — Building occupancy*

### **Occupation of buildings**

25       **12.**—(1) Except as otherwise provided in this Act, no person shall occupy, or permit or cause to be occupied, any building or any part thereof where any building works have been carried out unless the Commissioner of Building Control has issued a certificate of statutory completion in respect of that building or that part of the building.

30

(2) Nothing in subsection (1) shall prohibit —

- (a) the occupation by any person of any building or part thereof for the sole purpose of preventing any damage to the

building or part thereof or any theft of any property therein;  
or

(b) the occupation by any person of any building in respect of which a temporary occupation permit has been granted.

5 (3) The Commissioner of Building Control may, on an application in the prescribed manner in relation to any building, grant a temporary occupation permit in respect of the building subject to such written directions as the Commissioner of Building Control may specify and, in particular, those written directions may —

10 (a) limit the period for which the temporary occupation permit is granted;

(b) require such work or alteration to the building to be carried out as may be specified to the satisfaction of the Commissioner of Building Control; and

15 (c) provide for the completion of the work or alteration before the expiration of a specified period.

(4) A temporary occupation permit shall only be prima facie evidence that a building is suitable for occupation and is and shall not be taken to be evidence of compliance with the provisions of this Act, the building regulations or any other written law.

(5) The Commissioner of Building Control may amend, suspend or, in the event of failure to comply with any written direction issued under subsection (3), revoke any temporary occupation permit.

25 (6) Any person who contravenes subsection (1) or fails to comply with any written direction issued under subsection (3) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both; and

30 (b) in respect of a continuing contravention or failure to comply, to an additional fine not exceeding \$1,000 for each day or part thereof the contravention or failure to comply continues,

and if the contravention or failure to comply continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not

exceeding \$2,000 for every day or part thereof during which the contravention or failure to comply continues after conviction.

*Division 6 — Accredited checkers*

**Unlawful undertaking work as accredited checker, etc.**

5       **13.**—(1) Any person who —

(a) undertakes work which is required by this Act or the building regulations to be performed by an accredited checker when he is not an accredited checker under this Division or when his registration as such is suspended; or

10       (b) undertakes work which is required by this Act or the building regulations to be performed by a specialist accredited checker when he is not a specialist accredited checker under this Division or when his registration as such is suspended,

15       shall be guilty of an offence.

(2) Any person who undertakes any work on behalf of an organisation, being work which is required by this Act or the building regulations to be undertaken by an accredited checker who is either a director, partner, member or an employee of an accredited checking organisation when —

20       (a) it is not registered as an accredited checking organisation under this Division; or

(b) its registration as such is suspended,

shall be guilty of an offence.

25       (3) If —

(a) an accredited checker undertakes work on his own behalf as an accredited checker in relation to building works the value of which is more than —

30       (i) \$10 million, if no other sum is prescribed under paragraph (b); or

(ii) such sum as the Minister may, by notification in the *Gazette*, specify; or

- (b) a specialist accredited checker undertakes work on his own behalf as a specialist accredited checker in relation to building works the value of which is more than such sum as is specified by the Minister by notification in the *Gazette*,

5 the accredited checker or specialist accredited checker, as the case may be, shall be guilty of an offence.

(4) If an organisation which is not registered as an accredited checking organisation under this Division advertises or holds itself out or describes itself in any way to be an accredited checking  
10 organisation, that organisation shall be guilty of an offence.

**Register of accredited checkers, etc.**

**14.**—(1) The Commissioner of Building Control shall keep and maintain the following registers:

- (a) a register of accredited checkers registered under section 16;  
15 (b) a register of specialist accredited checkers registered under section 16; and  
(c) a register of accredited checking organisations registered under section 16,

20 in which shall be entered the names and prescribed particulars of the persons and organisations so registered.

(2) The absence of the name of any person or organisation from the registers kept under subsection (1) shall be prima facie evidence that —

- (a) in the case of the register of accredited checkers, that the  
25 person is not so registered or that his registration has been suspended or cancelled;  
(b) in the case of the register of specialist accredited checkers, that the person is not so registered or that his registration has been suspended or cancelled; and  
30 (c) in the case of the register of accredited checking organisations, that the organisation is not so registered or that its registration has been suspended or cancelled.

(3) The registers referred to in subsection (1) shall be kept and maintained at the office of the Commissioner of Building Control and

shall be available for inspection by any person without charge during office hours.

**Who may be registered as accredited checker, etc., or accredited checking organisation**

5       **15.**—(1) Subject to the provisions of this Act, a person who applies to be registered, or to renew his registration, as an accredited checker or as a specialist accredited checker, as the case may be, shall be eligible to be so registered or have his registration so renewed if, and only if —

10           (a) he has paid the prescribed fee for such registration or renewal;

          (b) he satisfies the Commissioner of Building Control that he has the qualifications and the practical experience (whether in Singapore or elsewhere) prescribed for an accredited checker, or the specialist qualifications and the specialist practical experience (whether in Singapore or elsewhere) prescribed for a specialist accredited checker, as the case may be; and

          (c) he satisfies such other requirements as may be prescribed for such registration or renewal.

(2) Without prejudice to subsection (1), the Commissioner of Building Control may refuse to register, or to renew the registration of, a person as an accredited checker or as a specialist accredited checker if, in the opinion of the Commissioner of Building Control —

25           (a) the person is not of good character and reputation; or

          (b) there are reasonable grounds for believing that the person will not carry out the duties of an accredited checker or a specialist accredited checker, as the case may be, in accordance with this Act or the building regulations.

30       (3) Subject to the provisions of this Act, a partnership or corporation which applies to be registered, or to renew its registration, as an accredited checking organisation shall be eligible to be so registered or have its registration so renewed if, and only if —

(a) it is —

(i) a partnership consisting wholly of professional engineers registered under the Professional Engineers Act (Cap. 253) or which is licensed under that Act to supply professional engineering services in Singapore; or

(ii) a corporation licensed under the Professional Engineers Act to supply professional engineering services in Singapore; and

(b) it satisfies the Commissioner of Building Control that it meets such requirements as may be prescribed for such registration or renewal.

**Registration of accredited checkers, etc., or accredited checking organisations**

**16.**—(1) An application for registration, or to renew any registration, as —

(a) an accredited checker;

(b) a specialist accredited checker; or

(c) an accredited checking organisation,

shall be made in such manner and shall be accompanied by such documents and particulars as the Commissioner of Building Control may determine.

(2) Upon receiving an application under subsection (1), or an application to renew such registration, the Commissioner of Building Control shall consider the application and may —

(a) register or renew the registration of, as the case may be, the applicant as an accredited checker, a specialist accredited checker or an accredited checking organisation, with or without conditions; or

(b) refuse the registration or renewal.

(3) Where the Commissioner of Building Control has registered a person, or renewed the person's registration, as an accredited checker, a specialist accredited checker or an accredited checking

organisation, he shall issue to that person a certificate of such accreditation.

(4) Every registration as an accredited checker, a specialist accredited checker or an accredited checking organisation shall, unless earlier cancelled under section 17, be valid for such period as may be specified therein (being not longer than 12 months), and upon its expiry, that registration may be renewed for such period as may be specified (being also not longer than 12 months).

(5) The Commissioner of Building Control may appoint a committee of persons to assist him in considering applications for registration, or renewal of registration, as an accredited checker, a specialist accredited checker or an accredited checking organisation.

### **Cancellation, etc., of registration**

**17.**—(1) Subject to section 22, the Commissioner of Building Control may by order cancel, or suspend for a period not exceeding 6 months, the registration of an accredited checker or a specialist accredited checker if the Commissioner of Building Control is satisfied that the accredited checker or specialist accredited checker, as the case may be —

- (a) obtained his registration or renewed registration by fraud or misrepresentation;
- (b) no longer satisfies any of the requirements in section 15(1) by virtue of which he was so registered;
- (c) is convicted of an offence involving fraud or dishonesty or an offence under this Act or the building regulations;
- (d) is for any medical reason or any other reason no longer in a position to carry out the duties of an accredited checker or a specialist accredited checker, as the case may be, effectively under this Act or the building regulations;
- (e) has contravened or failed to comply with section 18(4) or (5);
- (f) has for any reason been censured or ordered to pay a financial penalty by a Disciplinary Committee under the Professional Engineers Act (Cap. 253) or has had his

registration as a professional engineer under that Act revoked or suspended; or

(g) has failed to meet such standards of performance as may be prescribed in the building regulations.

5 (2) The Commissioner of Building Control may by order cancel, or suspend for a period not exceeding 6 months, the registration of an accredited checking organisation if he is satisfied that —

(a) it obtained its registration or renewal of registration by fraud or misrepresentation;

10 (b) it has contravened or failed to comply with section 18(4) or (5);

(c) it has been convicted of an offence under this Act or the building regulations;

(d) any accredited checker who is —

15 (i) a partner or an employee of the accredited checking organisation which is a partnership; or

(ii) a director or manager or an employee of the accredited checking organisation which is a corporation,

20 has been convicted of an offence under this Act or the building regulations;

(e) it is no longer in a position to carry out the duties of an accredited checking organisation under this Act or the building regulations;

25 (f) it no longer satisfies any of the prescribed requirements by virtue of which it was so registered; or

30 (g) its performance as an accredited checking organisation, or the performance of any accredited checker who is a director, partner, member or an employee of the accredited checking organisation and acting on its behalf, fails to meet such standards of performance as may be prescribed in the building regulations.

(3) The Commissioner of Building Control shall not exercise his powers under subsection (1) or (2) unless an opportunity of being heard has been given to the accredited checker, specialist accredited



checker or accredited checking organisation against whom the Commissioner of Building Control intends to exercise his powers.

(4) The Commissioner of Building Control may appoint —

(a) a committee of persons; and

5 (b) an advocate and solicitor,

to assist the Commissioner of Building Control in considering any representation that may be made to him under subsection (3).

10 (5) The Commissioner of Building Control may, in addition to any order made under subsection (1) or (2), order the accredited checker, specialist accredited checker or accredited checking organisation that is the subject of the order to pay to him such sums as he thinks fit, not exceeding \$10,000, in respect of costs and expenses of and incidental to any proceedings before the committee appointed under subsection (4)(a).

15 (6) The costs and expenses referred to in subsection (5) shall include —

(a) the costs and expenses of any advocate and solicitor appointed under subsection (4)(b);

20 (b) such reasonable expenses as the Commissioner of Building Control may pay to witnesses; and

(c) such reasonable expenses as are necessary for the conduct of proceedings before the committee appointed under subsection (4)(a).

25 (7) Where the Commissioner of Building Control suspends or cancels the registration of an accredited checker, a specialist accredited checker or an accredited checking organisation under this section, he shall —

(a) cancel any certificate of accreditation issued to the person or organisation concerned under section 16(3); and

30 (b) remove the name and particulars of that person or organisation from the register of accredited checkers, the register of specialist accredited checkers or the register of accredited checking organisations, as the case may be.

(8) If the registration of an accredited checker, a specialist accredited checker or an accredited checking organisation is suspended under this section for any period, then at the end of the period of suspension, his or its name and particulars shall be reinstated on the respective register under section 14, and his or its certificate of accreditation shall be restored.

(9) The person whose registration as an accredited checker, a specialist accredited checker or an accredited checking organisation is suspended or cancelled under this section shall, within 14 days of being notified of the suspension or cancellation of registration, surrender to the Commissioner of Building Control the certificate of accreditation issued under section 16(3), failing which the person or organisation shall be guilty of an offence.

(10) The Commissioner of Building Control shall cancel the registration of an accredited checker or a specialist accredited checker who has died or whose registration has been cancelled under subsection (11).

(11) If the Commissioner of Building Control has cancelled the registration of a person as an accredited checker under subsection (1), he shall also cancel the registration of the person as a specialist accredited checker.

### **Duties and independence of accredited checkers, etc., and accredited checking organisations**

**18.**—(1) An accredited checker who —

(a) is appointed in respect of any major building works; or

(b) is acting on behalf of an accredited checking organisation,

shall check the detailed structural plans and design calculations of the building works in accordance with the building regulations and shall carry out such other duties as may be prescribed by those regulations.

(2) The specialist accredited checker appointed under section 8(1) in respect of any underground building works shall check the geotechnical aspects of those building works in accordance with the building regulations and shall carry out such other duties as may be prescribed by those regulations.

(3) An accredited checker or a specialist accredited checker who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 2 years or to both.

5 (4) An accredited checker shall not issue a certificate under section 5(2)(d) or 5A in respect of the plans of any building works —

(a) if the accredited checker has any professional or financial interest in the building works shown in the plans described in his certificate; or

10 (b) in the case where the accredited checker is a director, partner, member or an employee of an accredited checking organisation and acting on behalf of the accredited checking organisation —

(i) if the accredited checking organisation that is a corporation and any of its directors; or

15 (ii) if any partner of the accredited checking organisation that is a partnership,

has a professional or financial interest in the building works shown in the plans described in the certificate by the accredited checking organisation under section 5(2)(d) or 5A.

20 (5) A specialist accredited checker shall not issue a certificate under section 5(2)(d) or 5A in respect of the geotechnical aspects of any underground building works if the specialist accredited checker has any professional or financial interest in the underground building works shown in the plans described in his certificate.

(6) An accredited checker shall be regarded as having a professional or financial interest in any building works if —

30 (a) he is or has been responsible for the design or construction of the building or any of the building works in any capacity except building works relating to the alterations of the building which —

(i) do not affect any key structural element; or

(ii) affect any structural element but the effects are localised in nature and do not require any strengthening of any key structural element;

5 (b) he or any nominee of his is a member or an officer or employee of a company or other body which has a professional or financial interest in the building works; or

(c) he is a partner or is in the employment of a person who has a professional or financial interest in the building works.

10 (7) An accredited checking organisation shall be regarded as having a professional or financial interest in any building works if —

(a) any of its directors, partners, members or employees is or has been responsible for the design or construction of the building or any of the building works in any capacity except building works relating to the alterations of the building which —

15 (i) do not affect any key structural element; or

(ii) affect any structural element but the effects are localised in nature and do not require any strengthening of any key structural element;

20 (b) any nominee of the organisation is a member or an officer or employee of a company or other body which has a professional or financial interest in the building works; or

(c) the organisation or any of its directors or partners is a partner or is in the employment of a person who has a professional or financial interest in the building works.

25 (8) For the purposes of this Act —

(a) a person shall be treated as having a professional or financial interest in the building works even if he has that interest only as trustee for the benefit of some other person; and

30 (b) in the case of married people living together, the interest of one spouse shall, if known to the other, be deemed to be also an interest of the other.

(9) For the purposes of this Act —

- (a) involvement in the building works as an accredited checker or a specialist accredited checker; and
- (b) entitlement to any fee paid for his function as an accredited checker or a specialist accredited checker,

shall not be regarded as constituting a professional or financial interest.

(10) If a person who is —

- (a) an accredited checker;
- (b) a specialist accredited checker;
- (c) an accredited checking organisation that is a corporation; or
- (d) a partner of an accredited checking organisation that is a partnership, or a director of an accredited checking organisation that is a corporation,

contravenes subsection (4) or (5), as the case may be, the person shall be guilty of an offence and shall be liable on conviction to —

- (i) where the person is a corporation, a fine not exceeding \$100,000; and
- (ii) in any other case, a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.

#### *Division 7 — Enforcement and administration*

### **Demolition, etc., of unauthorised building works**

**19.**—(1) Where, in the opinion of the Commissioner of Building Control, any building has been erected, or any building works are or have been carried out, in contravention of the provisions of this Act or the building regulations, the Commissioner of Building Control may by order in writing require —

- (a) the cessation of the building works until the order is withdrawn;
- (b) the demolition of the building; or

(c) such work or alteration to the building or building works to be carried out as may be necessary to cause the same to comply with the provisions of this Act and the building regulations or otherwise to put an end to the contravention thereof.

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(2) An order made under subsection (1) shall specify all or any of the following:

(a) the manner in which the demolition, work or alteration specified in the order is to be carried out;

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(b) the time within which the demolition, work or alteration shall commence;

(c) the time within which the demolition, work or alteration shall be completed;

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(d) that the demolition, work or alteration shall be carried out with due diligence to the satisfaction of the Commissioner of Building Control.

(3) An order made under subsection (1) shall be served —

(a) where a building has been erected, on the owner or occupier of the building; and

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(b) where building works are being carried out, on the developer of the building works or the builder carrying out the building works.

(4) If an order made under subsection (1) is not complied with, the Commissioner of Building Control may —

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(a) demolish, remove or alter, or cause to be demolished, removed or altered, such building or building works or take such other steps as appear to the Commissioner of Building Control to be necessary, including ordering the closure of the building; and

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(b) recover all expenses reasonably incurred by him in the exercise of his powers under this section from the person in default.

(5) Without prejudice to the right of the Commissioner of Building Control to exercise his powers under subsection (4), if any person on whom an order made under subsection (1) is served fails to comply

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with the order, that person shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both; and

5 (b) in respect of a continuing failure to comply, to an additional fine not exceeding \$500 for each day or part thereof the failure to comply continues,

and if the failure to comply continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of  
10 this further offence to a further fine not exceeding \$1,000 for every day or part thereof during which the failure to comply continues after conviction.

(6) The Commissioner of Building Control may seize any materials resulting from the carrying out of any work under subsection (4).

15 (7) This section shall apply to any building works, whether or not for or connected with any temporary building.

### **Building offences**

**20.**—(1) Any person who commences or carries out, or permits or authorises the commencement or carrying out of —

20 (a) any building works (including underground building works) the plans of which have not been approved by the Commissioner of Building Control under section 5 or 5A; or

(b) any building works (including underground building works) for which there is no permit under section 6 in force,

25 shall be guilty of an offence and shall be liable on conviction —

(i) to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 2 years or to both; and

30 (ii) in respect of a continuing contravention, to an additional fine not exceeding \$1,000 for each day or part thereof the contravention continues,

and if the contravention continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding \$2,000 for every

day or part thereof during which the contravention continues after conviction.

(2) Any person who contravenes any term or condition of —

(a) an approval of plans of any building works under section 5 or 5A; or

(b) a permit to carry out any building works under section 6,

shall be guilty of an offence and shall be liable on conviction —

(i) to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both; and

(ii) in respect of a continuing contravention, to an additional fine not exceeding \$1,000 for each day or part thereof the contravention continues,

and if the contravention continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding \$2,000 for every day or part thereof during which the contravention continues after conviction.

(3) Any developer of any building works and any qualified person, site supervisor or builder directly concerned with the building works who, in carrying out the building works deviates, or permits or authorises the building works to deviate, in any material way from any plans of the building works approved by the Commissioner of Building Control under this Part shall each be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 2 years or to both.

(4) Any person who, being required by or by virtue of this Act or the building regulations to make or produce to the Commissioner of Building Control any plan, declaration, certificate, report, record, notice or other document, or who, for the purpose of obtaining any licence, permit, waiver or approval from the Commissioner of Building Control under this Act or the building regulations or for the purpose of establishing any fact relevant to the administration of this Act or the building regulations —

(a) makes or produces any plan, declaration, certificate, report, record, notice or other document which is false in a material particular; and



(b) produces any plan, declaration, certificate, report, record, notice or other document which is false in a material particular, or has not been made by the person by whom it purports to have been made, or has been in any way altered or tampered with,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

### **Pecuniary penalty**

21.—(1) Whether or not proceedings have been instituted against any person for an offence under section 20 in respect of any building works, the Commissioner of Building Control may require the person to pay a sum not exceeding 10 times the prescribed fees for the approval of plans of the building works or which would have been payable had each approval been obtained, for those building works, where it appears to the Commissioner of Building Control that such an offence has been committed.

(2) Any person who is aggrieved by a decision of the Commissioner of Building Control under subsection (1) may, within 14 days of being notified of the decision, appeal to the Minister against the decision.

(3) Where an appeal is made to the Minister under subsection (2), the Minister may confirm, vary or reverse the decision of the Commissioner of Building Control, or give such directions in the matter as he thinks fit, and the decision of the Minister shall be final.

(4) Every pecuniary penalty or part thereof outstanding shall be recoverable as a debt due to the Building and Construction Authority.

(5) On acceptance by the Commissioner of Building Control of the pecuniary penalty imposed under this section, the unauthorised building works in respect of which the penalty is paid shall be deemed to have been carried out without contravening section 20.

### **Appeals**

22.—(1) Where an application made under —

(a) section 5 or 5A for approval of plans of any building works;

- (b) section 6 for a permit to carry out any structural works;
- (c) section 6A for any modification or waiver of the requirements of the building regulations in relation to any particular building works;
- 5 (d) section 7A(3) for a waiver of the operation of section 7(1) in relation to any building works; or
- (e) section 15 for registration, or for the renewal of registration, as an accredited checker, a specialist accredited checker or an accredited checking organisation,

10 is refused, or is granted by the Commissioner of Building Control subject to terms and conditions, the applicant may, if aggrieved by the decision of the Commissioner of Building Control, appeal to the Minister against the decision within 14 days after being served with the notice of the decision.

15 (2) If the Commissioner of Building Control has made an order under section 17 in respect of an accredited checker, a specialist accredited checker or an accredited checking organisation, the accredited checker, specialist accredited checker or accredited checking organisation concerned may appeal to the Minister against  
20 the order within 14 days after being served with the notice of the order.

(3) In any appeal under this section in relation to the conviction of an accredited checker, a specialist accredited checker or an accredited checking organisation for a criminal offence, the Minister on appeal  
25 from any order of the Commissioner of Building Control shall accept the conviction as final and conclusive.

(4) Where an appeal is brought under this section from a decision of the Commissioner of Building Control, the Minister may, after giving the aggrieved appellant an opportunity to make representations  
30 in writing, dismiss or allow the appeal, unconditionally or subject to such conditions as he thinks fit.

(5) The decision of the Minister in any appeal under this section shall be final.”.

### **New Part IIIA**

4. The principal Act is amended by inserting, immediately after section 22C, the following Part:

#### **“PART IIIA**

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#### **DISABILITY AND OTHER PERFORMANCE REQUIREMENTS FOR BUILDINGS**

##### **Interpretation of this Part**

**22D.**—(1) In this Part, unless the context otherwise requires —

“building” does not include a temporary building;

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“performance requirement” means a performance requirement in the building regulations that —

(a) is to facilitate the access to, and use of, a building and its facilities by persons with disabilities; or

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(b) is prescribed in the building regulations for the purposes of this Part;

“person with disability” means an individual who has an impairment of hearing or sight, or an impairment which limits his ability to walk, or which restricts him to using a wheelchair;

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“physical feature”, in relation to a building, includes the following physical features (permanent or temporary):

(a) any feature arising from the design or construction of the building;

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(b) any feature of any approach to, exit from or access to such a building;

(c) any fixtures, fittings or facility in or on the premises of the building; or

(d) any other physical element or quality of the land on which the building stands.

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(2) A physical feature of a building satisfies the relevant performance requirement for the purposes of this Part where the

physical feature is constructed or installed in or in connection with the building in accordance with the performance requirement that —

(a) is relevant in relation to that physical feature; and

(b) is in effect at the following time:

5 (i) the day upon which the works to construct or install the physical feature started; or

10 (ii) in the case of a physical feature provided as part of building works to which Part II applies, the day a certificate of statutory completion is issued in respect of the building on the completion of those building works.

(3) For the avoidance of doubt, this Part shall apply to the physical features of any building, whether constructed before, on or after the commencement of section 4 of the Building Control (Amendment) Act 2007.

15 **Duty of building owner, etc., not to alter**

**22E.**—(1) Every owner or occupier of a building shall not remove, alter or obstruct, or cause the removal, alteration or obstruction of, any physical feature of the building where —

20 (a) the physical feature satisfies the relevant performance requirement for the purposes of this Part; and

(b) the removal, alteration or obstruction will cause the physical feature to cease to satisfy the relevant performance requirement.

25 (2) Where, in the opinion of the Commissioner of Building Control, any physical feature of a building referred to in subsection (1)(a) has been removed, altered or obstructed so as to cease to satisfy the relevant performance requirement, the Commissioner of Building Control may, by notice in writing, require such repairs, work or alteration to the physical feature or the building or other remedial action as he thinks fit to be carried out to reinstate the physical feature so as to satisfy the relevant performance requirement.

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(3) A notice to reinstate under subsection (2) shall specify —

(a) the manner in which the repairs, work, alteration or remedial action specified in the notice is to be carried out;

- (b) the time within which the repairs, work, alteration or remedial action shall commence;
- (c) the time within which the repairs, work, alteration or remedial action shall be completed; and
- 5 (d) that the repairs, work, alteration or remedial action shall be carried out with due diligence to the satisfaction of the Commissioner of Building Control.

10 (4) A notice to reinstate under subsection (2) shall be made in respect of any building or any physical feature thereof and shall be served —

- (a) on the owner of the building;
- (b) where that owner is not known or cannot be found by reasonable inquiry, on the occupier of the building;
- 15 (c) in the case of a physical feature comprised in any common property or limited common property of any subdivided building, on the owner thereof; or
- (d) in the case of a physical feature comprised in any common property of residential or commercial property in any housing estate of the Housing and Development Board —
  - 20 (i) on the Town Council receiving any rent or charge for the maintenance of that common property; or
  - (ii) where there is no Town Council with the function and duty to maintain that common property, on the Housing and Development Board.

25 (5) If any person on whom a notice under subsection (2) is served fails, without reasonable excuse, to comply with the requirements of that notice, that person shall be guilty of an offence and shall be liable on conviction —

- 30 (a) to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both;
- (b) to a further fine not exceeding \$250 for each day or part thereof the person fails, without reasonable excuse, to comply with the requirements of that notice; and

- (c) in the case of a continuing offence after conviction, to a further fine not exceeding \$500 for every day or part thereof during which the failure to comply continues after conviction.

5 **Appeal against notice to reinstate**

**22F.**—(1) Any person on whom a notice to reinstate under section 22E(2) is served may, within 21 days after the date of receipt of the notice, appeal in writing to the Minister against the notice in the prescribed manner.

- 10 (2) Notwithstanding that an appeal is lodged under subsection (1), the notice appealed against shall take effect and be complied with unless otherwise ordered by the Minister.

- (3) The Minister may determine an appeal under this section by confirming, varying or cancelling the notice of the Commissioner of Building Control under section 22E(2).

- 15 (4) The decision of the Minister in any appeal under this section shall be final.”.

**Amendment of heading to Part IV**

- 20 **5.** The heading to Part IV of the principal Act is deleted and the following heading substituting therefor:

“DANGEROUS BUILDINGS AND OCCURRENCES”.

**Repeal and re-enactment of sections 23 and 24**

- 6.** Sections 23 and 24 of the principal Act are repealed and the following sections substituted therefor:

25 **“Dangerous building works**

**23.**—(1) If the Commissioner of Building Control is of the opinion that any building works are being carried out in such a manner as —

- (a) will cause, or will be likely to cause, a risk of injury to any person or damage to any property;
- 30 (b) will cause, or will be likely to cause, or may have caused a total or partial collapse of —

- (i) the building in respect of which the building works are or have been carried out; or
  - (ii) any building, street or natural formation opposite, parallel, adjacent or in otherwise close proximity to those building works, or any part of any such building, street or land; or
- (c) will render, or will be likely to render, or may have rendered the building in respect of which the building works are or have been carried out or any building, street or natural formation opposite, parallel, adjacent or in otherwise close proximity to those building works, or any part of any such building, street or land, so unstable or so dangerous that it will collapse or be likely to collapse (whether totally or partially),

the Commissioner of Building Control may do either or both of the following:

- (A) engage a qualified person or a specialist to carry out such investigations and tests as may be necessary and to advise the Commissioner of Building Control on all matters relating to the safety of the building in respect of which the building works are or have been carried out or the building, street or natural formation opposite, parallel, adjacent or in otherwise close proximity to those building works, as the case may be, the reasons for its collapse (if applicable) and the measures that should be taken to obviate any possible danger that might arise from the condition of the building;

(B) make all or any of the orders in subsection (2).

(2) The Commissioner of Building Control may, for the purpose of obviating any danger or preventing any situation referred to in subsection (1)(a), (b) or (c) from happening, order the developer of those building works —

- (a) to immediately stop the building works;
- (b) to carry out or cause to be carried out (at the developer's cost) such inspection as the Commissioner of Building Control may specify of either or both of the following:

- (i) the building in respect of which the building works are or have been carried out;
- (ii) the building, street or natural formation opposite, parallel, adjacent or in otherwise close proximity to those building works;
- (c) to execute or cause to be executed (at the developer's cost) such building works as the Commissioner of Building Control may specify (which may include retrofitting under Part III); or
- (d) to demolish or cause to be demolished (at the developer's cost) the building in respect of which the building works are or have been carried out or any part thereof, and remove any rubbish resulting from the demolition.
- (3) Where the building works referred to in subsection (1) comprise structural works, the Commissioner of Building Control may, in lieu of or in addition to any engagement or order in subsection (1) or (2), revoke any permit granted under section 6 to carry out those structural works.
- (4) If the person to whom an order in subsection (2) is given fails to comply with the order within the time specified, the Commissioner of Building Control may execute the order in such manner as he thinks fit and recover in a court of competent jurisdiction as a debt due to him all expenses reasonably incurred by him in doing so from the person in default.
- (5) Without prejudice to the right of the Commissioner of Building Control to exercise his powers under subsection (4), any person who, without reasonable excuse, fails to comply with any order in subsection (2) that the person is given shall be guilty of an offence and shall be liable on conviction to —
- (a) where the order is to immediately stop the building works —
- (i) a fine not exceeding \$500,000 or imprisonment for a term not exceeding 2 years or both; and
- (ii) in respect of a continuing failure to comply, an additional fine not exceeding \$10,000 for each day or part thereof the person fails to comply with the order; or



(b) in the case of any other order in subsection (2) —

(i) a fine not exceeding \$100,000 or imprisonment for a term not exceeding 12 months or both; and

(ii) in respect of a continuing failure to comply, an additional fine not exceeding \$2,500 for each day or part thereof the person fails to comply with the order,

and if the failure to comply continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding —

(A) where the order is to immediately stop the building works — \$20,000 for each day or part thereof the person fails to comply with the order after conviction; or

(B) in the case of any other order in subsection (2) — \$5,000 for each day or part thereof the person fails to comply with the order after conviction.

(6) Any person to whom any order in subsection (2) is given shall, while the order is in force, display a copy of the order at every entrance to the building to which the order relates, and such copy shall be displayed in a way that it can be easily read by people outside the building.

(7) Any person who contravenes subsection (6) shall be guilty of an offence.

(8) The Commissioner of Building Control may also order the developer of the building works concerned to pay or reimburse the Commissioner of Building Control, all or a specified part of the expenses he has incurred in engaging a qualified person or a specialist under subsection (1)(A).

(9) The Commissioner of Building Control may recover in a court of competent jurisdiction as a debt due to him so much of the amount payable under an order made under subsection (8) as is not paid in accordance with that order.

(10) Any person on whom an order under subsection (8) is served may, within 14 days after the date of receipt of the order, appeal in writing to the Minister against the order in the prescribed manner.

(11) The Minister may determine an appeal under subsection (10) by confirming, varying or cancelling the order of the Commissioner of Building Control under subsection (8); and the decision of the Minister in any such appeal shall be final.

5 **Dangerous buildings**

24.—(1) If the Commissioner of Building Control is of the opinion that a building is in such a condition, or is used to carry such loads, as to be or likely to be dangerous, the Commissioner of Building Control may, for the purpose of obviating any danger, order the  
10 owner of the building to do all or any of the following:

- (a) to carry out or cause to be carried out (at the owner's cost) such inspection of the building as the Commissioner of Building Control may specify;
- 15 (b) to execute or cause to be executed (at the owner's cost) such building works as the Commissioner of Building Control may specify (which may include retrofitting under Part III);
- (c) to demolish or cause to be demolished (at the owner's cost) the building or any part thereof, and remove any rubbish resulting from the demolition;
- 20 (d) to cause (at the owner's cost) the building to be shored up or otherwise secured and a proper hoarding or fence to be put up for the protection of the public from danger, or arranging for the building to be watched.

(2) The Commissioner of Building Control may, in lieu of or in  
25 addition to any order under subsection (1), make —

- (a) an order (referred to in this Part as an occupancy order) directing the owner or occupier of the building to not allow more than the number of people stated in the occupancy order to be in the building at any time or to otherwise restrict the use of the building, until he, being satisfied that any  
30 inspection or building works referred to in subsection (1) are completed, withdraws the order; or
- (b) an order (referred to in this Part as a closure order) directing the closure of the building, and that every owner and  
35 occupier of the building must quit the building and must not

allow anyone else to occupy the building except as permitted under this Part.

(3) Before exercising any of his powers under subsection (2), the Commissioner of Building Control shall, if it is reasonably practicable to do so, give notice of his intention to make an occupancy order or a closure order, as the case may be.

(4) If the person to whom an order in subsection (1) is given fails to comply with the order within the time specified, the Commissioner of Building Control may —

- (a) execute the order in such manner as he thinks fit; and
- (b) recover in a court of competent jurisdiction as a debt due to him all expenses reasonably incurred by him in doing so from the person in default,

except that so far as the expenses incurred under this section consist of expenses of fencing off the building, or arranging for it to be watched, the expenses shall not be recoverable in respect of any period after the danger has been removed by other steps under this section.

(5) Without prejudice to the right of the Commissioner of Building Control to exercise his powers under subsection (4), any person who, without reasonable excuse, fails to comply with any order in subsection (1) that the person is given shall be guilty of an offence and shall be liable on conviction —

- (a) to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 12 months or to both; and
- (b) in respect of a continuing failure to comply, to an additional fine not exceeding \$2,500 for each day or part thereof the person fails to comply with the order,

and if the failure to comply continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding \$5,000 for each day or part thereof the person fails to comply with the order after conviction.

(6) Any person to whom any occupancy order or closure order under subsection (2) is given shall, while the order is in force, display a copy of the order at every entrance to the building to which the

order relates, and such copy shall be displayed in a way that it can be easily read by people outside the building.

(7) Any person who contravenes subsection (6) shall be guilty of an offence.”.

5 **Amendment of section 25**

7. Section 25(1) of the principal Act is amended by deleting the words “order under this Act requiring the closure of any building, the order (referred to in this section as a closure order)” and substituting the words “closure order, the order”.

10 **New section 25A**

8. The principal Act is amended by inserting, immediately after section 25, the following section:

**“Investigations into dangerous occurrences**

15 **25A.**—(1) Where the Commissioner of Building Control becomes aware of any dangerous occurrence in any premises at which building works are carried out or in any other premises, the Commissioner of Building Control may direct any person authorised on his behalf to investigate the circumstances of the dangerous occurrence.

20 (2) No person shall, without the prior consent of the Commissioner of Building Control —

(a) alter, replace, remove or add to any building element, machinery, equipment, plant or article at any premises in respect of which the Commissioner of Building Control has made any direction under subsection (1); or

25 (b) modify any premises in respect of which the Commissioner of Building Control has made any direction under subsection (1).

30 (3) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(4) Nothing in subsection (2) shall operate to interfere with rescue work or work necessary for the general safety of life and property.

(5) In this section, “dangerous occurrence” means —

- (a) the collapse or structural failure of any building (completed or otherwise); or
- (b) any structural distress that is likely to lead to the instability of any building (completed or otherwise),

whether or not the collapse, structural failure or structural distress results in any death, bodily injury or injury to health.”.

### **New Part VA**

9. The principal Act is amended by inserting, immediately after section 29, the following Part:

#### “PART VA

#### LICENSING OF BUILDERS

#### **Interpretation of this Part**

29A.—(1) In this Part, unless the context otherwise requires —

“builder” means a general builder or a specialist builder;

“building works” means any building works to which Part II applies;

“Commissioner” means the Commissioner of Building Control and includes such other person as the Commissioner generally or specially authorises under section 3(2);

“corporation” shall not include a limited liability partnership;

“minor specialist building works” means the following specialist building works:

- (a) all specialist building works associated with minor building works;

- (b) structural steelwork comprising fabrication and erection work for structures with a cantilever length of not more than 3 metres, a clear span of less than 6 metres and a plan area not exceeding 150 square metres;

(c) pre-cast concrete work comprising casting of pre-cast reinforced concrete slabs or planks on site; and

(d) such other specialist building works as the Minister may, by notification in the *Gazette*, declare to be minor specialist building works,

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but does not include any specialist building works associated with major building works;

“partnership” includes a limited liability partnership;

“prescribed” means prescribed in the regulations made under section 29L.

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(2) For the purposes of this Part —

(a) a person carries on the business of a general builder if the person carries out, or undertakes to carry out, (whether exclusively or in conjunction with any other business) general building works for or on behalf of another person for a fixed sum, percentage, or valuable consideration, or reward other than wages, but not if the person carries out, or undertakes to carry out, general building works only as a sub-contractor;

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(b) a person carries on the business of a specialist builder if the person carries out, or undertakes to carry out, (whether exclusively or in conjunction with any other business) any specialist building works for or on behalf of another person for a fixed sum, percentage, or valuable consideration, or reward other than wages;

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25

(c) a person carries out general building works or specialist building works whether that person carries it out personally, or directly or indirectly causes it to be carried out;

(d) a person shall be deemed to carry on the business of a general builder or specialist builder if he carries out general building works or specialist building works, as the case may be, on or in respect of a building for himself; and

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(e) a person undertakes to carry out general building works or specialist building works if that person enters into a contract to carry it out or submits a tender or makes an offer to carry it out.

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(3) For the avoidance of doubt, nothing in this Part shall prohibit or prevent —

- (a) any person not licensed under this Part from carrying out any building works to which Part II does not apply;
- 5 (b) any site supervisor or team of site supervisors appointed under section 10 from carrying on any activity solely for the purpose of that section; or
- 10 (c) a qualified person, or any person under the direction or supervision of such a qualified person, from carrying on any activity within the practice of architecture or professional engineering which the qualified person is authorised to carry on under any written law other than this Act.

#### **Prohibition against unlicensed builders**

**29B.**—(1) Subject to the provisions of this Act, no person shall —

- 15 (a) advertise or hold himself out or conduct himself in any way or by any means as a person who is authorised to carry on the business of a general builder or a specialist builder in Singapore; or
- 20 (b) assume, take or use (either alone or in combination with any other word, letter or device) the name or title of “licensed general builder” or, as the case may be, “licensed specialist builder”, or any name, title or description calculated to lead others to believe he is so licensed, or by words or conduct hold himself out as being so licensed,

25 unless he is in possession of a general builder’s licence and a specialist builder’s licence, respectively.

(2) Subject to the provisions of this Act, no person shall —

- (a) carry on the business of a general builder in Singapore unless he is in possession of a general builder’s licence;
- 30 (b) carry on a business carrying out, or undertaking to carry out, (whether exclusively or in conjunction with any other business) general building works and minor specialist building works or minor specialist building works only, unless he is in possession of a general builder’s licence; or

(c) carry on the business of a specialist builder in Singapore unless he is in possession of a specialist builder's licence.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to —

5 (a) a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both;

(b) a further fine not exceeding \$500 for each day or part thereof the person fails, without reasonable excuse, to comply with the requirements of that subsection; and

10 (c) in the case of a continuing offence after conviction, to a further fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction.

(4) Subject to the provisions of this Act, a person who carries out any general building works or specialist building works in  
15 contravention of subsection (2) shall not be entitled to recover in any court any charge, fee or remuneration for the general building works or specialist building works so carried out.

(5) Nothing in this section shall apply to prevent a corporation or limited liability partnership that ceases to have in force a builder's  
20 licence from carrying on any activity necessary to the winding up of the corporation or limited liability partnership.

### **Classes of builder's licences**

**29C.**—(1) A licence may be granted under this Part to a builder authorising the builder —

25 (a) to carry on the business of a general builder generally, known as a Class 1 general builder's licence;

(b) to carry on the business of a general builder restricted to contracts or engagements for an estimated final price each of not more than \$3 million, known as a Class 2 general  
30 builder's licence; or

(c) to carry on the business of a specialist builder specified therein, known as a specialist builder's licence of that class.

(2) In this section, any reference to the estimated final price in relation to any building works shall be a reference to the total fee



chargeable at practical completion for the building works, including any goods and services tax payable in relation to the supply of the work, and —

- 5 (a) where a number of distinct contracts or engagements to perform building works are entered into in connection with the same building by the same person, the estimated final price shall be the moneys payable in respect of the performance of all the contracts or engagements in the aggregate, notwithstanding that some or all of such contracts or engagements taken severally do not exceed the sum specified in subsection (1)(b); and
- 10
- 15 (b) in any case where the Commissioner is satisfied that the contracts or engagements are substantially in respect of the same undertaking or that they were entered into with a view to evading the provisions of this Act, the estimated final price shall be the moneys payable in respect of the performance of such of the contracts or engagements in the aggregate as the Commissioner shall determine.

### **Register of licensed builders**

- 20 **29D.**—(1) The Commissioner shall keep a register of builders in which shall be entered the names of all persons licensed under this Part as general builders or specialist builders, and such other particulars in relation thereto as may from time to time be prescribed.
- (2) A person may, on payment of the prescribed fee, if any —
- 25 (a) inspect the register of builders during the ordinary hours of business of the Commissioner; or
- (b) obtain from the Commissioner a certificate as to the licence or non-licence of a named person on a specified date or during a specified period.
- 30 (3) A certificate purporting to be signed by the Commissioner certifying that a person was or was not licensed under this Part on a specified date or during a specified period is admissible in any proceedings as evidence of the matters stated in the certificate.

### **Application for builder's licence**

**29E.**—(1) An application for a builder's licence shall be made to the Commissioner in the prescribed manner and accompanied by the appropriate application fee as may be prescribed.

5 (2) An applicant for a builder's licence shall, at the request of the Commissioner, provide any further information or evidence that the Commissioner may require to decide the application.

10 (3) Subject to sections 29F and 29G, upon receiving an application for a builder's licence under subsection (1), the Commissioner shall consider the application and may —

(a) where the application is for a general builder's licence —

(i) grant a Class 1 or Class 2 builder's licence, with or without conditions; or

(ii) refuse to grant any such licence; or

15 (b) where the application is for a specialist builder's licence —

(i) grant a specialist builder's licence for the appropriate class of specialist building works, with or without conditions; or

(ii) refuse to grant any such licence.

20 (4) In deciding whether to grant a licence, the Commissioner may make inquiries and investigations that are reasonable and appropriate in the circumstances so as to be satisfied as to —

25 (a) the good character of the applicant or, if the applicant is a corporation or partnership, the general character of the management of the corporation or of the partners, as the case may be;

(b) the financial condition of the applicant; and

(c) whether the public interest will be served by the granting of the licence,

30 including —

(i) seeking confirmation about the experience of applicants through site inspections and referee checks; and

- (ii) carrying out checks with the Commissioner for Workplace Safety and Health appointed under section 7 of the Workplace Safety and Health Act (Cap. 354A) and the Official Assignee.

5 (5) The Commissioner may refuse to grant a licence under this section to any corporation or partnership if, in the opinion of the Commissioner, the past conduct of any director, manager or employee of the corporation or any partner, manager or employee of the partnership affords reasonable grounds for believing that the  
10 corporation or partnership, as the case may be, will not carry on the business of a general builder or specialist builder in accordance with any written law and with honesty and integrity.

(6) Every builder's licence shall, unless earlier revoked, be valid for such period as may be specified therein (being not longer than  
15 3 years), and upon its expiry, the licence may be renewed.

#### **Who may be licensed as general builder**

**29F.**—(1) Subject to subsections (2), (4) and (5), a natural person who applies for a general builder's licence shall be eligible to be granted such a licence if, and only if —

- 20 (a) he has paid the prescribed fees for such licence;
- (b) he satisfies the Commissioner that he is a person of good character, and that he intends to carry on business on his own account;
- (c) he —
  - 25 (i) has completed the prescribed course of training and has the prescribed practical experience (whether in Singapore or elsewhere) in the work of a general builder or as a supervisor of general building works; or
  - 30 (ii) although not having complied with the requirements of sub-paragraph (i), satisfies the Commissioner that he has nevertheless had such practical experience in the work of a general builder or as a supervisor of general building works, as to render him, in the opinion of the Commissioner, competent to carry on the business of a  
35 general builder in Singapore; and

(d) he satisfies the Commissioner that the execution and performance of any general building works in Singapore that he undertakes shall be under —

(i) his personal supervision; or

(ii) the personal supervision of at least one of his employees, being an employee who satisfies the Commissioner that the employee meets the requirements of paragraph (c)(i).

(2) Where a natural person applies for a general builder's licence in partnership with another natural person or other natural persons, the partnership shall, subject to subsections (4) and (5), be eligible to be granted such a licence if, and only if —

(a) at least one partner satisfies the Commissioner that he meets the requirements of subsection (1);

(b) the applicant satisfies the Commissioner that the management of the business of the partnership in so far it relates to general building works in Singapore shall at all times be under the charge and direction of a partner of the partnership who —

(i) has the prescribed qualifications and prescribed practical experience; or

(ii) although not having the prescribed qualifications and prescribed practical experience, satisfies the Commissioner that he has nevertheless had such practical experience as to render him, in the opinion of the Commissioner, competent to manage the business of a general builder in Singapore; and

(c) the applicant satisfies the Commissioner that the execution and performance of any general building works in Singapore undertaken by the partnership shall be under the personal supervision of —

(i) at least one partner of the partnership; or

(ii) at least one of its employees, being a person employed in such a manner and with such similar duties and responsibilities as a partner,

who satisfies the Commissioner that he meets the requirements of subsection (1)(c)(i).

(3) Subject to subsection (4), a corporation which applies for a general builder's licence, shall be eligible to be granted such a licence if, and only if —

- (a) it has paid the prescribed fees for such licence;
- (b) it is neither a company limited by guarantee nor a corporation sole;
- (c) the paid-up capital of the corporation is —
  - (i) not less than \$25,000 (or its equivalent in a foreign currency) where it is applying for a Class 2 general builder's licence; or
  - (ii) not less than \$300,000 (or its equivalent in a foreign currency) where it is applying for a Class 1 general builder's licence;
- (d) it satisfies the Commissioner that it is duly authorised to carry on the business of a general builder;
- (e) it further satisfies the Commissioner that the management of the business of the corporation in so far it relates to general building works in Singapore shall at all times be under the charge and direction of a director of the corporation, or a member of the board of management of the corporation, or an employee (being a person employed in such a manner and with such similar duties and responsibilities of a director or member of its board of management) who —
  - (i) has the prescribed qualifications and prescribed practical experience; or
  - (ii) although not having the prescribed qualifications and prescribed practical experience, satisfies the Commissioner that he has nevertheless had such practical experience as to render him, in the opinion of the Commissioner, competent to manage the business of a general builder in Singapore; and
- (f) the applicant satisfies the Commissioner that the execution and performance of any general building works in Singapore

undertaken by the corporation shall be under the personal supervision of —

- (i) at least one director of the corporation or a member of its board of management; or
- 5 (ii) at least one of its employees, being a person employed in such a manner and with such similar duties and responsibilities as a director or member of its board of management,

10 who satisfies the Commissioner that he meets the requirements of subsection (1)(c)(i).

(4) Notwithstanding subsection (1), (2) or (3), the Commissioner may require an applicant under that subsection to satisfy him that the applicant has sufficient material and financial resources available to enable the applicant to meet his or its financial obligations as and when they become due, and may refuse to grant a licence to an applicant who fails to so satisfy him.

(5) No natural person and no partnership shall be eligible for a Class 1 general builder's licence.

### **Who may be licensed as specialist builder**

20 **29G.**—(1) Any natural person who applies for a licence to be a specialist builder for any class of specialist building works shall, subject to subsection (4), be eligible to be granted such a specialist builder's licence if, and only if —

- (a) he has paid the prescribed fees for such licence;
- 25 (b) he satisfies the Commissioner that he is a person of good character, and that he intends to carry on business on his own account;
- (c) he —
  - 30 (i) has completed the prescribed course of training and has the prescribed practical experience (whether in Singapore or elsewhere) in the work of a specialist builder for that class of specialist building works or as a supervisor of such specialist building works for a specialist builder's licence of that class; or

- 5 (ii) although not having complied with the requirements of sub-paragraph (i), satisfies the Commissioner that he has nevertheless had such practical experience in the work of a specialist builder for that class of specialist building works or as a supervisor of such specialist building works as to render him, in the opinion of the Commissioner, competent to carry on the business of a specialist builder of that class in Singapore; and
- 10 (d) he satisfies the Commissioner that the execution and performance of any specialist building works in Singapore that he undertakes shall be under —
- (i) his personal supervision; or
  - (ii) the personal supervision of at least one of his employees, being an employee who satisfies the Commissioner that the employee meets the requirements of paragraph (c)(i).
- 15
- (2) Where a natural person applies in partnership with another natural person or other natural persons for a specialist builder's licence for any class of specialist building works, the partnership shall, subject to subsection (4), be eligible to be granted such a specialist builder's licence if, and only if —
- 20
- (a) at least one partner satisfies the Commissioner that he meets the requirements of subsection (1);
  - (b) the applicant satisfies the Commissioner that the management of the business of the partnership in so far it relates to specialist building works of that class in Singapore shall at all times be under the charge and direction of a partner of the partnership who —
- (i) has the prescribed qualifications and prescribed practical experience; or
  - (ii) although not having the prescribed qualifications and prescribed practical experience, satisfies the Commissioner that he has nevertheless had such practical experience for that class of specialist building works as to render him, in the opinion of the Commissioner, competent to manage the business of a
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specialist builder in Singapore for that class of specialist building works; and

5 (c) the applicant satisfies the Commissioner that the execution and performance of that class of specialist building works in Singapore undertaken by the partnership shall be under the personal supervision of —

(i) at least one partner of the partnership; or

10 (ii) at least one of its employees, being a person employed in such a manner and with such similar duties and responsibilities as a partner,

who satisfies the Commissioner that he meets the requirements of subsection (1)(c)(i).

15 (3) Subject to subsection (4), a corporation which applies for a specialist builder's licence for any class of specialist building works, shall be eligible to be granted such a licence if, and only if —

(a) it has paid the prescribed fees for such licence;

(b) it is neither a company limited by guarantee nor a corporation sole;

20 (c) the paid-up capital of the corporation is not less than \$25,000 (or its equivalent in a foreign currency);

(d) it satisfies the Commissioner that it is duly authorised to carry on the business of a specialist builder;

25 (e) it further satisfies the Commissioner that the management of the business of the corporation in so far it relates to specialist building works of that class in Singapore shall at all times be under the charge and direction of a director of the corporation, or a member of the board of management of the corporation, or an employee (being a person employed in such a manner and with such similar duties and responsibilities of a director or member of its board of management) who —

30 (i) has the prescribed qualifications and prescribed practical experience; or

35 (ii) although not having the prescribed qualifications and prescribed practical experience, satisfies the



Commissioner that he has nevertheless had such practical experience for that class of specialist building works as to render him, in the opinion of the Commissioner, competent to manage the business of a specialist builder in Singapore for that class of specialist building works; and

(f) the applicant satisfies the Commissioner that the execution and performance of that class of specialist building works in Singapore undertaken by the corporation shall be under the personal supervision of —

(i) at least one director of the corporation or a member of its board of management; or

(ii) at least one of its employees, being a person employed in such a manner and with such similar duties and responsibilities as a director or member of its board of management,

who satisfies the Commissioner that he meets the requirements of subsection (1)(c)(i).

(4) Notwithstanding subsection (1), (2) or (3), the Commissioner may require an applicant under that subsection to satisfy him that the applicant has sufficient material and financial resources available to enable the applicant to meet his or its financial obligations as and when they become due, and may refuse to grant a licence to an applicant who fails to so satisfy him.

#### **Conditions of builder's licence relating to construction personnel**

**29H.**—(1) From the appointed day, it shall be a condition of every Class 1 general builder's licence (whether granted before the appointed day or otherwise) that the builder holding that licence —

(a) shall lodge with the Commissioner a manpower programme that satisfies the requirements in subsection (2) in respect of each significant general building work project to be undertaken in Singapore by the builder on or after that appointed day; and

(b) shall, at all times when carrying on the general building works in connection with that significant general building work project, take all practicable steps to ensure that the

registered construction personnel employed by or on the licensed general builder's behalf or engaged in connection with that significant general building work project comply with the manpower programme lodged under paragraph (a) in respect of that significant general building work project.

(2) A manpower programme in respect of any particular significant general building work project shall be a program or scheme specifying all or any of the following:

(a) the number (which shall not be less than the number prescribed) of different classes of registered construction personnel to be employed by or on behalf of the licensed general builder or to be engaged in connection with that significant general building work project;

(b) the proportion (which shall not be less than the proportion prescribed) of different classes of registered construction personnel to be employed by or on behalf of the licensed general builder or to be engaged in connection with that significant general building work project.

(3) If there is any change in the number or proportion of registered construction personnel —

(a) specified in a manpower programme lodged by a licensed general builder under subsection (1)(a) in respect of any particular significant building work project; or

(b) employed by or on behalf of the licensed general builder or to be engaged in connection with that particular significant building work project,

the licensed general builder shall notify the Commissioner of the change within 7 days after that change.

(4) In this section, "take all practicable steps", in relation to any result in any circumstances, means taking all steps to achieve the result that it is reasonably practicable to take in the circumstances; and for the avoidance of doubt, a person required by this section to take all practicable steps is required to take those steps only in respect of circumstances that the person knows or ought reasonably to know about.

(5) In this section, unless the context otherwise requires —

“appointed day” means such day as the Minister may, by notification in the *Gazette*, specify to be the appointed day for the purposes of this section;

5 “construction foreman” means a natural person who carries out, or undertakes to carry out, for or on behalf of another person for a fixed sum, percentage, or valuable consideration, wages or other reward, the supervision and co-ordination of construction tradesmen or other workman in any prescribed  
10 class of work connected with any building works, and a construction foreman shall be classified according to the class of work he so supervises for reward;

“construction personnel” means any natural person who is —

- (a) a construction foreman of any class;
- 15 (b) a construction supervisor of any class; or
- (c) a construction tradesman of any class;

20 “construction supervisor” means a natural person, not being a builder, who oversees the execution or performance of building works for or on behalf of another person for a fixed sum, percentage, or valuable consideration, wages or other reward, but does not include a construction foreman or other person employed in a like or less responsible capacity;

25 “construction tradesman” means a natural person, not being a builder, who carries out, or undertakes to carry out, for or on behalf of another person, for a fixed sum, percentage, or valuable consideration, wages or other reward, any prescribed class of work connected with any building works, and a construction tradesman shall be classified according to the class of work he so carries out for reward;

30 “engaged” means engaged under a contract of service or a contract for services;

“registered” means registered with the Building and Construction Authority;

35 “significant general building work project” means any building works the value of which is \$10 million or more.

### Other conditions of builder's licence

29I.—(1) It shall be a condition of every Class 2 builder's licence that the licensed builder holding such a licence shall not enter into any contract or engagement to carry out general building works for an estimated final price which exceeds the amount specified under section 29C(1)(b).

(2) Where any general building works or specialist building works are carried out by a licensed builder who is a natural person, that person shall ensure that —

(a) the execution and performance of the general building works or specialist building works, as the case may be, shall be personally supervised —

(i) by himself; or

(ii) by at least one of his employees who is employed to manage and supervise those building works undertaken and who meets the requirements of section 29F(1)(c)(i) or 29G(1)(c)(i), as the case may be; and

(b) the name of that licensed builder or employee shall appear in any sign affixed or erected on the site where the general building works or specialist building works are carried out.

(3) Where any general building works or specialist building works are carried out by a licensed builder which is a partnership, the partners thereof shall ensure that the execution and performance of the general building works or specialist building works, as the case may be, shall be personally supervised by —

(a) at least one partner of the partnership; or

(b) at least one of its employees who is employed in such a manner and with such similar duties and responsibilities as a partner,

who meets the requirements of section 29F(1)(c)(i) or 29G(1)(c)(i), as the case may be.

(4) Where any general building works or specialist building works are carried out by a licensed builder which is a corporation, the corporation shall ensure that the execution and performance of the

general building works or specialist building works, as the case may be, shall be personally supervised by —

(a) at least one director of the corporation or a member of its board of management; or

5 (b) at least one of its employees who is employed in such a manner and with such similar duties and responsibilities as a director or member of its board of management,

who meets the requirements of section 29F(1)(c)(i) or 29G(1)(c)(i), as the case may be.

10 (5) It shall be a condition of every builder's licence granted to a partnership or a corporation that the management of the business of the partnership or corporation in so far it relates to general building works or specialist building works, as the case may be, shall at all times be under the charge and direction of —

15 (a) a partner in the case of the partnership; or

(b) in the case of a corporation, a director or a member of the board of management of the corporation or an employee of the corporation who is employed in such a manner and with such similar duties and responsibilities as a director or member of its board of management,

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who satisfies the Commissioner that he meets the requirements of section 29F(2)(b) or (3)(e) or 29G(2)(b) or (3)(e), as the case may be.

(6) Without prejudice to subsections (1) to (5), the Commissioner may grant a builder's licence subject to such other conditions as the Commissioner thinks fit and may at any time vary any existing conditions (other than those specified in subsections (1) to (5)) of such a licence or impose additional conditions thereto.

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(7) Before making any modification to the conditions of a builder's licence under this section, the Commissioner shall give notice to the licensed builder concerned —

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(a) stating that he proposes to make the modification in the manner specified in the notice; and

(b) specifying the time (being not less than 14 days from the date of service of notice on the licensed builder concerned)

within which written representations with respect to the proposed modification may be made.

(8) Upon receipt of any written representation referred to in subsection (7)(b), the Commissioner shall consider the representation and may reject the representation or amend the proposed modification in accordance with the representation, or otherwise and, in either event, shall thereupon issue a direction in writing to the licensed builder concerned requiring that effect be given to the proposed modification specified in the notice or to such modification as subsequently amended by the Commissioner within a reasonable time.

### **Revocation of licences, etc.**

**29J.**—(1) Subject to subsection (3), the Commissioner may by order revoke any general builder's licence or specialist builder's licence if he is satisfied that —

- (a) the licensed builder fails to comply with any of the relevant requirements of section 29H(1) or (3) or 29I(1) or (5), as the case may be;
- (b) the licensed builder has failed to comply with any condition imposed by the Commissioner under section 29I(6);
- (c) for a period exceeding 28 days —
  - (i) the licensed builder ceases to, or ceases to have any employee thereof referred to in section 29I(2), personally supervise the execution and performance of any general building works or specialist building works in Singapore undertaken by the licensed builder; or
  - (ii) where the licensed builder is a partnership or a corporation, it ceases to have any director, manager or employee of the corporation, or any partner or employee of the partnership, as the case may be, referred to in section 29I(3) or (4) personally supervise the execution and performance of any general building works or specialist building works in Singapore undertaken by the licensed builder;
- (d) the licence had been obtained by fraud or misrepresentation;

- (e) the licensed builder has ceased to carry on business as a general builder or specialist builder, as the case may be, in Singapore;
- (f) the licensed builder has been declared bankrupt or has gone into compulsory or voluntary liquidation other than for the purpose of amalgamation or reconstruction;
- (g) the licensed builder has been convicted of an offence under this Act;
- (h) the conduct of any director, manager or employee of the corporation, or any partner or employee of the partnership, that is a licensed builder affords grounds for believing that the corporation or partnership, as the case may be, will not carry on the business of a general builder or specialist builder, as the case may be, in Singapore in accordance with any written law and with honesty and integrity;
- (i) the public interest or national security of Singapore so requires; or
- (j) the licensed builder has refused or failed to comply with an order of the Commissioner made under subsection (2)(b) or (d).

(2) The Commissioner may, in any case in which he considers that no cause of sufficient gravity for revoking any general builder's licence or specialist builder's licence exists, by order —

- (a) suspend the licence for a period not exceeding 6 months;
- (b) impose on the builder concerned a financial penalty not exceeding \$20,000;
- (c) censure the builder concerned; or
- (d) impose such other direction or restriction as the Commissioner considers appropriate on the builder's business as a general builder or specialist builder, as the case may be.

(3) The Commissioner shall not exercise his powers under subsection (1) or (2) unless an opportunity of being heard by a representative in writing or by counsel had been given to the licensed

builder against which the Commissioner intends to exercise its powers, being a period of not more than 14 days.

(4) Where the Commissioner has revoked a builder's licence under this section, he shall serve on the builder concerned a notice of his order made under this section.

(5) Any order by the Commissioner revoking or suspending a licence, or imposing a financial penalty, direction or restriction shall not take effect until the expiration of 14 days after the Commissioner has served the order on the builder concerned.

(6) Where the builder concerned has appealed under section 29K to the Minister against an order by the Commissioner under this section, the order shall not take effect unless the order is confirmed by the Minister or the appeal is for any reason dismissed by the Minister or withdrawn.

(7) Where an order of revocation becomes effective —

- (a) the Commissioner shall cause notice of the revocation to be published in the *Gazette*; and
- (b) the builder concerned shall, as from the date of the notice, cease to carry on business as a general builder or specialist builder, as the case may be, in Singapore except as may be approved by the Commissioner.

(8) Subsection (7)(b) shall not prejudice the enforcement by any person of any right or claim against the corporation, partnership or limited liability partnership or by the corporation, partnership or limited liability partnership of any right or claim against any person.

(9) In any proceedings under this section in relation to the conviction of licensed builder for a criminal offence, the Commissioner shall accept the builder's conviction as final and conclusive.

### **Appeal to Minister**

**29K.**—(1) Any person whose application for a builder's licence or for the renewal of a builder's licence has been refused by the Commissioner may, within 14 days after being notified of such refusal, appeal in the prescribed manner to the Minister whose decision shall be final.



(2) Where a builder's licence is granted by the Commissioner subject to conditions (other than those specified in section 29H or 29I), the builder concerned may, within 14 days after being notified of such conditions, appeal in the prescribed manner to the Minister whose decision shall be final.

(3) If the Commissioner has made —

- (a) an order of revocation or suspension of a licence under section 29J; or
- (b) an order imposing any pecuniary penalty on, or a direction or restriction on the business of a licensed corporation, partnership or limited liability partnership under section 29J(2),

the person whose licence is revoked or suspended, on whom such a penalty, direction or restriction is imposed, as the case may be, may, within 14 days after being served with the notice of the order, appeal to the Minister against the order, and the decision of the Minister shall be final.

(4) In any appeal under this section in relation to the conviction of a licensed builder for a criminal offence, the Minister on appeal from any order of the Commissioner shall accept the builder's conviction as final and conclusive.

### **Power of Minister to make regulations**

**29L.** The Minister may make regulations for giving effect to the provisions of this Part and for the due administration thereof, and, in particular, for or with respect to all or any of the following matters:

- (a) prescribing the form and procedure for applications for builder's licences;
- (b) varying the minimum paid-up capital of a corporation specified in section 29F(3)(c) or 29G(3)(c) in connection with applications for a general builder's licence or specialist builder's licence;
- (c) prescribing the different classes of construction tradesmen and construction foremen for the purposes of section 29H;
- (d) prescribing offences in respect of the contravention of any regulations made under this section, and prescribing fines,

not exceeding \$10,000 or imprisonment which may not exceed 12 months or both, that may, on conviction, be imposed in respect of any such offence;

- (e) prescribing any matter which is required under this Part to be prescribed.

### **Savings and transitional provision**

**29M.** Notwithstanding the provisions of this Part, any person who, immediately before the commencement of section 9 of the Building Control (Amendment) Act 2007, is carrying on the business of a general builder or specialist builder in Singapore shall be entitled to continue doing so for a period of 6 months from that date, and if before the expiry of that period a licence is applied for under this Part, that person shall be entitled to continue carrying on the business of a general builder or specialist builder, as the case may be, until —

- (a) the date on which a general builder’s licence or specialist builder’s licence under this Part is issued; or
- (b) the application for a licence under this Part is refused or withdrawn.”.

### **Amendment of section 30**

**10.** Section 30 of the principal Act is amended by inserting, immediately after the words “exempt any”, the word “person,”.

### **Repeal and re-enactment of section 31**

**11.** Section 31 of the principal Act is repealed and the following section substituted therefor:

#### **“Offences by bodies corporate, etc.**

**31.—**(1) Where an offence under this Act or the building regulations has been committed by a body corporate, every officer of the body corporate shall also be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless the officer proves that —

- (a) the offence was committed without the consent or connivance of the officer; and
- (b) the offence was not attributable to any neglect on his part.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

5 (3) Where an offence under this Act or the building regulations has been committed by a partnership, each partner of the partnership shall also be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless the partner proves that —

10 (a) the offence was committed without the consent or connivance of the partner; and

(b) the offence was not attributable to any neglect on his part.

(4) Where an offence under this Act or the building regulations has been committed by an unincorporated association (other than a partnership), every officer of the unincorporated association and every member of its governing body shall also be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless the officer or member, as the case may be, proves that —

20 (a) the offence was committed without the consent or connivance of the officer of the unincorporated association or member of its governing body, as the case may be; and

(b) the offence was not attributable to any neglect on the part of that officer or member.

(5) In this section —

25 “body corporate” includes a limited liability partnership;

“officer” —

30 (a) in relation to a body corporate, means any director, partner, member of the committee of management, Chief Executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or

35 (b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, or any person holding a position analogous

to that of president, secretary or member of a committee and includes any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

- 5 (6) The Minister may make regulations providing for the application of any provision of this section, with such modifications as the Minister considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a territory outside Singapore.”.

10 **Amendment of section 33**

**12.** Section 33 of the principal Act is amended —

- (a) by inserting, immediately after the words “Commissioner of Building Control” wherever they appear in subsection (1), the words “or any person appointed by him for this purpose”;
- 15 (b) by deleting the words “section 9(3C)(d) or 11(4)(c)” in subsection (1)(d) and substituting the words “section 9(4) or 11(1)(c)”; and
- (c) by inserting, immediately after the words “Commissioner of Building Control” wherever they appear in subsections (1A), (4) and (6), the words “or a person appointed under subsection (1)”.
- 20

**Amendment of section 42**

**13.** Section 42 of the principal Act is amended —

- (a) by deleting the word “or” at the end of subsection (1)(b);
- (b) by deleting the full-stop at the end of paragraph (c) of subsection (1) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:
- 25 “(d) in the case of an incorporated company, a partnership or a body of persons —
- (i) by delivering it to the secretary or other like officer of the company, partnership or body of persons at its registered office or principal place of business; or
- 30

(ii) by sending it by registered post addressed to the company, partnership or body of persons at its registered office or principal place of business.”; and

5 (c) by inserting, immediately after subsection (4), the following subsection:

10 “(5) Any notice, order or document sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person at the time when the notice, order or document, as the case may be, would in the ordinary course of post be delivered and, in proving service of the notice, order or document, it shall be sufficient to prove that the envelope containing the same was properly addressed, stamped and posted by registered post.”.

15 **Repeal and re-enactment of section 48**

**14.** Section 48 of the principal Act is repealed and the following section substituted therefor:

**“Composition of offences**

20 **48.**—(1) The Commissioner of Building Control may, in his discretion, compound any offence under this Act or any subsidiary legislation made thereunder which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding —

25 (a) one half of the amount of the maximum fine that is prescribed for the offence; or

(b) \$5,000,

whichever is the lower.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

30 (3) The Minister may make regulations to prescribe the offences which may be compounded.

(4) All sums collected under this section shall be paid to the Building and Construction Authority.”.

**Amendment of section 49**

15. Section 49 of the principal Act is amended —

(a) by inserting, immediately after sub-paragraph (vii) of subsection (2)(e), the following sub-paragraph:

5           “(viii) environmental sustainability measures that improve the total quality of life and minimises adverse effects to the environment, both now and in the future;”;

(b) by inserting, immediately after paragraph (f) of subsection (2), the following paragraph:

10           “(fa) the reporting of dangerous occurrences (as defined in section 25A) in premises at which building works are carried out;”;

(c) by inserting, immediately after the words “accredited checkers” in subsection (2)(p), the words “and specialist accredited checkers”; and

15

(d) by deleting the words “a fine not exceeding \$5,000 or imprisonment for a term not exceeding 6 months or with both” in subsection (3) and substituting the words “a fine not exceeding \$10,000 or imprisonment for a term not exceeding 12 months or with both”.

20

**Repeal of section 51 and new section 51**

16. Section 51 of the principal Act is repealed and the following section substituted therefor:

**“Application of Act to Government**

25       **51.**—(1) Except as provided in subsection (2), this Act shall bind the Government and shall apply to —

(a) any premises wholly or partly owned or occupied by the Government; and

(b) any premises in which any building operation or any work of engineering construction is carried on by or on behalf of the Government.

30

(2) Nothing in this Act shall render the Government liable to prosecution for an offence.

(3) For the avoidance of doubt, no person shall be immune from prosecution for any offence under this Act by reason that the person is engaged to provide services to the Government.”.

### **Repeal of Schedule**

5     **17.** The Schedule to the principal Act is repealed.

### **Miscellaneous amendments to penalties**

10     **18.**—(1) The sections of the principal Act specified in the first column of the First Schedule to this Act are amended by deleting the fine or term of imprisonment or both specified in the second column of the First Schedule opposite that section and substituting in each case the fine or  
15     term of imprisonment or both, as the case may be, specified in the third column of that Schedule.

20     (2) Section 28(9) of the principal Act is amended by deleting the words “to a fine not exceeding \$10,000 or to imprisonment for a term not  
25     exceeding 6 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$500 for every day during which the offence continues after conviction.” and substituting the words “to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both, and in respect of a continuing contravention, to an additional fine not exceeding \$500 for each day or part thereof during which the contravention continues, and if the contravention continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding \$2,000 for every day or part thereof during which the contravention continues after conviction.”.

### **Consequential amendments to other written laws**

**19.** The provisions of the Acts specified in the first column of the Second Schedule are amended in the manner set out in the second column thereof.

**Savings and transitional provisions**

20.—(1) Any certificate of statutory completion or temporary occupation permit issued under section 21 of the principal Act before the appointed day shall continue and be deemed to have been issued under the principal Act as amended by section 3 of this Act.

(2) Any application or other document lodged for approval under the provisions of the principal Act before the appointed day and whose application was not approved before that day shall, where applicable, be deemed to be an application or a document lodged for approval under the principal Act as amended by section 3 of this Act.

(3) Where any appeal has been made to the Minister under Part II of the principal Act before the appointed day and the appeal has not been dealt with or disposed of immediately before that day, the appeal may be dealt with in accordance with the principal Act as if this Act had not been enacted.

(4) Any person who, immediately before the appointed day, is registered as an accredited checker or accredited checking organisation shall be deemed to be registered under the provisions of the principal Act as amended by section 3 of this Act, and any register of accredited checkers or register of accredited checking organisations kept and maintained under the provisions of the principal Act shall continue and be deemed to be kept and maintained under the provisions of the principal Act as amended by section 3 of this Act.

(5) Every person who, immediately before the appointed day, is appointed under the provisions of the principal Act as a qualified person, builder or site supervisor shall continue in such appointments as if he is appointed as such under the principal Act as amended by section 3 of this Act, and their respective appointments shall expire on the day their appointments would have expired if this Act had not been enacted.

(6) Every committee established before the appointed day under the provisions of Part II of the principal Act —

- (a) to assist the Commissioner of Building Control in considering applications for registration as accredited checkers or accredited checking organisations; or



(b) to assist the Commissioner of Building Control in considering any representation that may be made against his exercising any power to suspend or cancel the registration of an accredited checker or accredited checking organisation,

5 shall be deemed to be a committee established under the principal Act as amended by this Act.

(7) Where any period of time is specified in any provision in Part II of the principal Act in force immediately before the appointed day, any period of time so specified and current shall be deemed for the purposes  
10 of the principal Act as amended by this Act —

(a) to run from the date or event from which it was running immediately before that day; and

(b) to expire (subject to any provision of the principal Act as amended by this Act for its extension) whenever it would have  
15 expired if this Act had not been enacted.

(8) This Act shall not affect —

(a) the continued operation or force of any order, direction or decision of the Commissioner of Building Control or the Minister made under Part II of the principal Act before the  
20 appointed day, and any right of appeal accrued before the appointed day in respect of any such order, direction or decision; and

(b) the continued operation or force of any order, direction or decision of the Commissioner of Building Control or the  
25 Minister made under any provision of Part IV of the principal Act before the commencement of section 6 of this Act.

(9) In this section, “appointed day” means the date of commencement of section 3 of this Act.

## FIRST SCHEDULE

Section 18(1)

## MISCELLANEOUS AMENDMENTS TO PENALTIES

<i>First column</i>	<i>Second column</i>	<i>Third column</i>
<i>Section</i>	<i>Old penalty</i>	<i>New penalty</i>
Section 25(3A)	Imprisonment — 6 months	Imprisonment — 12 months
Section 28(5A)	Fine — \$2,000 Further fine — \$200 per day	Fine — \$5,000 Further fine — \$500 per day
Section 28(8)	Fine — \$10,000	Fine — \$20,000
Section 28(10)	Fine — \$10,000	Fine — \$20,000
Section 36(2)	Fine — \$1,000	Fine — \$2,000
Section 47	Fine — \$5,000 Imprisonment — 3 months	Fine — \$10,000 Imprisonment — 6 months

## SECOND SCHEDULE

Section 19

## CONSEQUENTIAL AMENDMENTS TO OTHER WRITTEN LAWS

<i>First column</i>	<i>Second column</i>
<p>(1) Building and Construction Authority Act (Chapter 30A, 2000 Ed.)</p> <p>Section 10</p>	<p>Insert, immediately after paragraph (e), the following paragraph:</p> <p>“(ea) register construction tradesmen, construction foremen and construction supervisors of suitable qualifications and experience with a view to raising standards of performance in construction services in Singapore;”.</p>
<p>(2) Building Maintenance and Strata Management Act 2004 (Act 47 of 2004)</p> <p>(a) Section 2(1)</p>	<p>Delete the definition of “person responsible” and substitute the following definition:</p> <p>““person responsible”, in relation to an exterior feature of a building, means —</p> <p>(a) except as otherwise provided by paragraph (b), (c) or (d), the owner of the premises or building which the exterior feature is installed on, forms part of or projects outwards from, or such other person who has charge and control of the management and maintenance of the exterior feature;</p> <p>(b) subject to paragraph (c), where the exterior feature is part of any common property or limited common property —</p>

*First column*

*Second column*

- (i) in the case of common property of any housing estate of the Housing and Development Board — the Town Council established under the Town Councils Act (Cap. 329A) for that housing estate or the contractor (if any) engaged by the Town Council and who has charge and control of the management and maintenance of the common property; or
- (ii) in the case of common property or limited common property of any other land (whether or not comprised in a strata title plan) — the owner thereof or the managing agent (if any) appointed by the owner and who has charge and control of the management and maintenance of the common property or limited common property, unless otherwise provided by paragraph (d);

*First column**Second column*

- (c) where the exterior feature is a window, grille or shutter that is part of a flat — the owner of that flat or other person who ordinarily has daily charge and control over the maintenance and use of such window, grille or shutter; or
- (d) such other person as may be prescribed as the person responsible for the exterior feature;”;
- (b) Section 9
- (i) Insert, immediately after the words “has failed to” in subsection (2), the words “keep or”.
- (ii) Insert, immediately after subsection (3), the following subsections:
- “(4) Without prejudice to subsection (3), a person responsible for an exterior feature shall not, by virtue of subsection (1), be guilty of an offence under that subsection if —
- (a) within 7 days after service on him of any notice alleging that he has been guilty of such offence, he furnishes by statutory declaration to the Commissioner, the name and address of the contractor, managing agent or other person appointed by the person responsible to manage and maintain the exterior feature at all relevant times relating to the offence concerned; and

*First column**Second column*

- (b) he satisfies the court that he relied, in good faith and after making proper inquiry (if the circumstances indicated the need for inquiry of the advice or services), on professional or expert advice or other services given or rendered by the contractor, managing agent or other person in relation to the exterior feature concerned.
- (5) A statutory declaration made under subsection (4) if produced in any proceedings against the person named therein and in respect of the offence concerned shall be prima facie evidence that the person had charge and control of the management and maintenance of the exterior feature at all relevant times relating to that offence.”.
- (c) Section 66(3) Delete the words “or (c)” in paragraph (b).
- (d) Section 68(4) Delete the words “owners corporation” in paragraph (c) of the definition of “material benefit” and substitute the words “management corporation”.
- (e) Section 77(1) Delete the words “Subject to subsection (3), a” and substitute the word “A”.
- (f) Section 139(1) Delete the words “or in regulations made under this section”.

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## EXPLANATORY STATEMENT

This Bill seeks to amend the Building Control Act (Cap. 29) for the following main purposes:

- (a) to raise standards of work in the construction industry by licensing builders;
- (b) to regulate major geotechnical works as if these were building works for permanent buildings involving key structural elements;

- (c) to ensure adequate supervision of structural works by requiring the qualified persons and the builders to have their own respective supervision teams;
- (d) to ensure that the qualified person who is appointed to supervise building works will be independent from the influence of the developer;
- (e) to require building owners and occupiers to refrain from altering their premises so as to cease to be in compliance with certain building performance requirements, such as the performance requirements for persons with disabilities; and
- (f) to raise the criminal penalties in order to be aligned with the Workplace Safety and Health Act (Cap. 354A).

The Bill also makes consequential amendments to the Building and Construction Authority Act (Cap. 30A) and the Building Maintenance and Strata Management Act 2004 (Act 47 of 2004).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 by introducing the new definitions of “geotechnical aspects”, “geotechnical engineer”, “earth retaining structure”, “underground building works”, “specialist accredited checker” and “value” in relation to building works, and by amending the definitions of “building”, “owner” and “temporary building”. The definition of “person responsible” is also replaced.

Most of the new definitions are connected with the amendments that seek to regulate major geotechnical works as if these were building works for permanent buildings involving key structural elements. These works are termed “underground building works”, which is defined to mean building works to make certain tunnels or holes in the ground, and which start on or after a date to be specified by the Minister by order in the *Gazette*. Most of these holes in the ground would be more than 6 metres in depth or tunnels of more than 2 metres in diameter, width or height. Specialised expertise will be required for such work. A “geotechnical engineer” is a professional engineer who is registered under the Professional Engineers Act (Cap. 253) as a specialist professional engineer in the specialised branch of geotechnical engineering. A “specialist accredited checker” is an accredited checker who is registered to undertake the work of an accredited checker in respect of the geotechnical aspects of underground building works.

The definition of “value of the building works” in section 16(8) has been transferred and introduced in section 2, as the “value” in relation to any building works. This term will be relevant not only with regard to accredited checkers but also to underground building works, fixing the number of site supervisors and the proportion and types of construction personnel to be engaged. The new definition of “value” in relation to building works clarifies how this value is to be measured and addresses the impact of goods and services tax on the computation. It refers essentially to the total cost to be expended in carrying out the building works estimated at the time of, and contained in, the application for approval of the plans of the building works, including any goods and services tax payable in relation to the supply of the work.

By amending the definition of “building”, the scope of the Act is expanded to apply to floating structures which are neither boats nor vessels. The definition of “temporary building” has been amended to exclude bridges and decking for bridges as well as temporary earth retaining structures. The obsolete reference to the Control of Rent Act (Cap. 58) in the definition of “owner” has also been deleted.

Finally, the definition of “person responsible” for an exterior feature that is part of a building is amended to confine the definition to a person who is an owner of that part of the building, because the responsibilities of the person responsible under the Act comprise retrofitting or re-installation of exterior features.

Section 2 is also amended to explain the meaning of being an associate of a developer or builder of building works. This is necessary for the purposes of establishing a conflict of interest between qualified persons and their site supervisors, and when either may be properly appointed to undertake these roles in connection with any building works.

The final amendment to section 2 concerns continuing offences. It makes it clear that where any act or thing has to be done within a particular period or before a particular time, then any failure to do that act or thing within the period or before that time constitutes a separate offence for each day it is not done, and the obligation to do that act or thing will continue, notwithstanding that that period has expired or that time has passed, until that act or thing is done.

Clause 3 repeals and re-enacts Part II of the Act with better re-organisation into 7 Divisions. The new Part II sets out requirements for doing building works, from the appointment of qualified persons, site supervisors, builders and accredited checkers, through the plans approval process and carrying out the work, to completion of the building works. The process is basically the same process provided in the present Act, except that the Bill additionally requires geotechnical engineers, specialist accredited checkers and specialist builders to be involved with regard to the geotechnical aspects of underground building works, as if these were building works for permanent buildings, and requires builders and qualified persons to have respective teams of supervisors in the course of carrying out their duties in all types of building works.

The new section 4 sets out the scope of application of Part II. An intention is to allow limited deregulation in respect of exempt buildings, temporary buildings and minor building works as the benefits of regulating some kinds of buildings and minor building works do not always justify the cost and effort needed for their regulation, being of low cost and complexity. Retrofitting of exterior features is also excluded from Part II since Part III regulates these works.

The new Division 2 of Part II contains new sections 5, 5A, 5B, 6 and 6A.

The new section 5 deals with the submission of building plans to the Commissioner of Building Control who may approve or disapprove of them. Plans relating to the structural elements of the building works must be accompanied by a certificate by an accredited checker to the effect that, to the accredited checker’s knowledge and belief, the plans do not show any inadequacy in the key structural elements. The application for building plans approval must be made by the developer of the building works, who is the person for whom or on whose behalf the building works are to be carried out.



The provision sets out the documents which must accompany such applications. The building plans must be prepared by the appropriate qualified person. In the case of underground building works, the geotechnical aspects of the plans must be prepared by a geotechnical engineer, and checked by a specialist accredited checker who is another geotechnical engineer. It is permissible for a qualified person who is also a geotechnical engineer to prepare the plans for all aspect of building works which comprise underground building works.

Certificates from accredited checkers have also to accompany the building plans for approval. In the case of building works which comprise underground building works, the certificate regarding the geotechnical aspects must be issued by a specialist accredited checker only. There is no need for a certificate from an accredited checker if the building works are minor building works. These are defined in section 2 to mean building works that are not underground building works, and are prescribed in the building regulations as building works the plans of which do not require a certification from an accredited checker. These will be building works which do not contain major structural works. For minor building works, the Commissioner of Building Control can approve the structural plans of those building works on the basis of the certificate of the qualified person appointed to prepare those plans. The Commissioner of Building Control is not precluded from carrying out random checks on any of the structural plans, design calculations and geotechnical aspects of any building works.

The Commissioner of Building Control may approve any one or more of the plans submitted to him, with or without conditions, or disapprove any of these plans. As an interim measure, he may direct the applicant to comply with certain requirements for the purpose of ensuring that the plans submitted comply with the provisions of the Act and the building regulations and to re-submit those plans for his approval, within such period as may be specified in the direction.

Where the plans of any building works have been approved under section 5 and the developer of the building works intends to depart or deviate from the plans approved, the new section 5A requires the developer to apply to the Commissioner of Building Control for his approval of the amended plans showing the proposed departure or deviation.

The new section 5B deals with the lapsing and revocation of any approval of building plans. Building plans approval for any building works will automatically lapse if the written permission granted under section 12 of the Planning Act (Cap. 232) in respect of the building works lapsed pursuant to section 20 of that Act. If no such written permission had been granted, building plans approval lapsed at the end of a continuous period of 6 months if the building works are suspended for that time. The approval will also lapse if the building works did not start within the prescribed period; this is to ensure that approvals granted remain current. The Commissioner of Building Control may also revoke any building plans approval granted for any building works if he is satisfied that any information given in the application for the approval, or any document submitted to him in connection with the application for approval, is false in a material particular. If the building plans approval for any building works is revoked, any permit, certificate of statutory completion and temporary occupation permit granted in respect of those building works will also automatically lapse. This has the effect of

rendering the building works unauthorised and liable to demolition. The resulting building from those building works also cannot continue to be lawfully occupied.

The new section 6 deals with applications for a permit to carry out structural works in any building works. The permit is needed before structural works can start. The process is basically the same process provided in the present Act; an application for a permit to carry out structural works is to be made to the Commissioner of Building Control jointly by 3 parties, namely, by the developer of those building works, the builder whom the developer has appointed in respect of the building works, and the qualified person whom the builder or developer has appointed to supervise the building works. The new requirement is that the particulars of site supervisors or site supervision teams, where appointed by the qualified person, have to accompany every application for a permit to carry out structural works.

An application to modify or waive the building regulations can be made under the new section 6A to the Commissioner of Building Control. The application may relate to any particular building works, advertisements, signboards or skysigns. Any modification or waiver may be granted subject to such terms and conditions as the Commissioner of Building Control may impose.

Division 3 of Part II contains new sections 7 and 7A relating to the carrying on of building works.

The new section 7 stresses the importance of building works being carried out under the supervision of appropriately trained persons. It will be an offence to carry out any building works unless the works are carried out under the supervision of an architect or a professional engineer. For the structural elements of building works which are classified by the building regulations as small-scale building works, the full-time supervision of a site supervisor or a team of site supervisors may not be necessary, but concreting, piling, pre-stressing, tightening of high-friction grip bolts or other critical structural works of building works must be carried out under the immediate supervision of the qualified person, or a site supervisor. These requirements are basically the same provided in the present Act, except that the Bill additionally requires geotechnical engineers or their site supervisors to supervise the geotechnical aspects of underground building works. The criminal penalties for contravening the supervision requirements is raised to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 2 years or to both, and in respect of a continuing contravention, to an additional fine not exceeding \$1,000 for each day or part thereof the contravention continues. If the contravention continues after the conviction, the person will be guilty of a further offence which carries a daily fine of up to \$2,000 for every day or part thereof during which the contravention continues after conviction. This is an increase from a fine of up to \$100,000 or imprisonment of up to 12 months or both, and in the case of a continuing offence, a daily fine of \$1,000 for each day during which the contravention continues after conviction.

The new section 7A relates to the carrying out by the qualified person appointed to supervise the carrying out of any building works of such tests of or in connection with the building works that are prescribed in the building regulations. The Commissioner of Building Control is also empowered to require certain tests to be carried out. The Commissioner of Building Control may waive the requirement to carry out such tests if

he is satisfied that it would be unreasonable in the particular instance. If the qualified person does not carry out the tests, the Commissioner of Building Control is empowered to require every site supervisor, the builder and specialist builder (if any) of the building works and the developer to cease the building works. The criminal penalties for not complying with the test requirements or the requirement to stop building works are largely unchanged, as a fine not exceeding \$50,000 or imprisonment for a term not exceeding 12 months or both. However, in respect of a continuing non-compliance by the qualified person, there will be an additional fine not exceeding \$1,000 for each day or part thereof the qualified person fails to comply with the requirement, and if the failure to comply continues after the conviction, the qualified person will be guilty of a further offence and liable to a further daily fine not exceeding \$2,000 for every day during which the failure to comply continues after conviction.

Division 4 concerns the duties of developers, qualified persons, site supervisors and builders of building works. It comprises new sections 8 to 11.

The new section 8 sets out the statutory duties of developers of building works. In addition to the present duties of appointing the qualified persons to prepare building plans and to supervise the carrying out of building works, and a builder and an accredited checker, where the building works comprise any underground building works, the developer has to appoint a geotechnical engineer to prepare the plans relating to the geotechnical aspects of the underground building works, a geotechnical engineer to supervise the geotechnical aspects of those building works, and a specialist builder to carry out any soil investigation work comprising exploratory drilling, boring or excavation for obtaining information about soil conditions, and field testing for loading capacity, including installation and monitoring of instruments measuring pore pressures for saturated and unsaturated levels, ground-water levels, ground movements or building movements. The developer of underground building works has also to appoint a specialist accredited checker (who is a geotechnical engineer) to check the plans for those works. The developer of any building works also has a new duty to notify the Commissioner of Building Control of any contravention of the Act or the building regulations relating to those building works of which the developer knows or ought reasonably to know. The criminal penalty for contravening this new duty is a fine not exceeding \$20,000 or imprisonment for a term not exceeding 12 months or both.

The new section 9 deals with the duties of the qualified person. The duties are basically the same duties provided in the present Act, except that the Bill additionally imposes duties with regard to the geotechnical aspects of underground building works, and more restrictions to further insulate the qualified person appointed to supervise the building works from the influence of the developer or builder of the building works. The new section 9 makes it an offence for a qualified person to supervise any structural works in respect of major building works if the qualified person, or any nominee of his, is a partner, an officer or an employee of the builder or the person for whom those building works are carried out or an associate of the builder or such person.

A number of criminal penalties for qualified persons have also been raised. The criminal penalty for failing to exercise due diligence during supervision has been raised to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 2 years or

to both, and an additional daily fine not exceeding \$1,000 for each day or part thereof of the contravention. If the contravention continues after the conviction, the qualified person will be guilty of a further offence and liable to another daily fine not exceeding \$2,000 for every day or part thereof during which the contravention continues after conviction. The penalty for failing to exercise due diligence during preparation of building plans has been raised to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 2 years or to both, and an additional daily fine not exceeding \$1,000 for each day or part thereof of the contravention. If the contravention continues after the conviction, the qualified person will be guilty of a further offence and liable to another daily fine not exceeding \$2,000 for every day or part thereof during which the contravention continues after conviction.

The new section 10 corresponds to the existing section 10 in relation to site supervisors, except for additional requirements for teams of site supervisors, and continuing vocational education for site supervisors. The new section 10 requires the qualified person who is appointed to supervise the carrying out of building works to appoint a site supervisor or a team of site supervisors to assist the qualified person to manage and supervise the building works. A team of site supervisors will be required for all higher value building works. The qualifications and experience of these site supervisors and the composition of these teams will be prescribed in the building regulations. The new requirement is that site supervisors have to have continuing vocational education before they can be appointed in respect of any building works, by remaining accredited with either the Building and Construction Authority or an organisation that is prescribed in the building regulations.

Criminal penalties for site supervisors have also been raised. The criminal penalty for the offence of supervising building works while being an associate of a builder or developer of the building works has been raised to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both. The criminal penalty for failing to exercise due diligence during supervision has been raised to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both, and an additional daily fine not exceeding \$1,000 for each day or part thereof of the contravention. If the contravention continues after the conviction, the site supervisor will be guilty of a further offence and liable to another daily fine not exceeding \$2,000 for every day or part thereof during which the contravention continues after conviction.

The new section 11 deals with the duties of builders and specialist builders. The duties for builders are basically the same duties provided in the present Act, except that the Bill additionally imposes on a builder of general building works a duty to co-ordinate with all specialist builders as regards the same building works, and to require the builder to provide an adequate number of supervisors to supervise the carrying out of building works by the builder. The new section 11 also imposes specific but fewer duties on specialist builders. The criminal penalties for failing to discharge the duties is basically unchanged, except that for failing to notify the Commissioner of Building Control of any contravention of the Act or the building regulations in relation to those building works of which the builder or specialist builder knows or ought reasonably to know, and for not keeping at the premises on which the building works are carried out, or making available on request (at a reasonable time) by any specialist builder of those

same building works, all plans of those building works approved by the Commissioner of Building Control and supplied to the builder.

The criminal penalty for not building in adherence to approved building plans and the Act has been raised to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 2 years or to both. The penalty for failing to notify the Commissioner of Building Control or to keep plans in site has also been raised to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both, and an additional daily fine not exceeding \$1,000 for each day or part thereof of the contravention. If the contravention continues after the conviction, the builder or specialist builder, as the case may be, will be guilty of a further offence and liable to another daily fine not exceeding \$2,000 for every day or part thereof during which the contravention continues after conviction. This is an increase from a fine of up to \$10,000 or imprisonment of up to 6 months or both, and in the case of a continuing offence, a daily fine of \$500 for each day during which the offence continues after conviction.

Division 5 of Part II is concerned with the end-stage of building works and comprises section 12 on the occupation of completed buildings.

The new section 12 re-enacts the present section 21 and provides that no person can occupy, or permit or cause to be occupied, any building or any part thereof where any building works have been carried out unless the Commissioner of Building Control has issued a certificate of statutory completion or a temporary occupation permit in respect of that building or that part of the building. The Commissioner of Building Control may grant a temporary occupation permit in respect of the building to allow for such occupation, subject to written directions. The written directions may limit the period for which the temporary occupation permit is granted, require such work or alteration to the building to be carried out as may be specified to the satisfaction of the Commissioner of Building Control, and provide for the completion of the work or alteration before the expiration of a specified period. A temporary occupation permit is only prima facie evidence that a building is suitable for occupation and cannot be taken to be evidence of compliance with the provisions of the Act, the building regulations or any other written law.

Division 6 of Part II regulates accredited checkers, specialist accredited checkers and accredited checking organisations. It comprises new sections 13 to 18.

The new section 13 makes it an offence to undertake work as an accredited checker or specialist accredited checker, or accredited checking organisation without being first so registered under the Division or while the registration is suspended. It also makes it an offence for an accredited checker or a specialist accredited checker to undertake work on his own behalf in relation to building works beyond a certain threshold value. That value is \$10 million, but that value may be varied subsequently by the Minister through a notification in the *Gazette*.

The new section 14 requires the Commissioner of Building Control to prepare and maintain a register of accredited checkers, a register of specialist accredited checkers and a register of accredited checking organisations.

The new section 15 sets out the eligibility criteria to be registered as an accredited checker, a specialist accredited checker or an accredited checking organisation, as the case may be.

The new section 16 is a re-enactment of sections 16 and 16A, and deals with the registration of accredited checkers, specialist accredited checkers and accredited checking organisations, and the issue of certificates of accreditation.

The new section 17 deals with disciplinary control of accredited checkers and accredited checking organisations. Registration may be cancelled, or suspended for up to 6 months, on the same grounds as in the present Act. For example, the registration of any accredited checker or specialist accredited checker may be cancelled if (inter alia) the accredited checker breaches the new section 18. Also, if the registration of a person as an accredited checker is cancelled, he will also lose his registration as a specialist accredited checker.

However, the new section 17 now allows the Commissioner of Building Control to appoint an advocate and solicitor to help him in any inquiry against any accredited checker, specialist accredited checker or accredited checking organisation and to order the accredited checker, specialist accredited checker or accredited checking organisation concerned to pay to him such sums as he thinks fit, not exceeding \$10,000, in respect of costs and expenses of and incidental to any such inquiry, including the remuneration for the advocate and solicitor.

The new section 18 sets out the duties of accredited checkers and specialist accredited checkers, the most important of which is that an accredited checker or a specialist accredited checker must not have any professional or financial interest in any building works shown in plans checked and certified by him. The new section explains what the concept of having a professional or financial interest in building works means. The new section extends that prohibition to people that are related to the accredited checker or specialist accredited checker and explains when a person can be taken as being related. The provisions are necessary to protect the public interest that lies in maintaining the independent nature of the accredited checker's and specialist accredited checker's role in checking building plans for compliance with legal requirements. Accredited checkers and specialist accredited checkers are like privatised regulators and therefore it is beneficial that their regulatory function be kept free of the kinds of conflicting interests referred to in the section. The offence for contravening these requirements for independence attracts an enhanced penalty of a fine not exceeding \$100,000 for accredited checking organisations or a fine not exceeding \$50,000 for an accredited checker or a specialist accredited checker or imprisonment of up to 2 years or both.

The criminal penalty for an accredited checker who fails to carry out his duties as such in accordance with the building regulations is also raised to a maximum fine of \$100,000 or to imprisonment for up to 2 years or to both. This same penalty extends to a specialist accredited checker who fails to carry out his duties as such in accordance with the building regulations.

Division 7 contains new sections 19 to 22, relating to enforcement and administrative matters connected with Part II.

As is the present law in section 13, the new section 19 empowers the Commissioner of Building Control to prohibit the erection of an unauthorised building or of any unauthorised building works and to require such steps to be taken as the Commissioner of Building Control thinks fit. The Commissioner of Building Control may also enter upon any land to demolish an unauthorised building or any unauthorised building works and recover the expenses reasonably incurred in the execution of such work from the owner or person responsible.

The new section 20 provides that no person is to commence or carry out any building works (except those excluded by new section 3) without the approval of the Commissioner of Building Control of the plans of the building works and a permit to carry out the building works, breach of which is an offence. The criminal penalty has been raised to a fine not exceeding \$200,000 or imprisonment for a term not exceeding 2 years or both and an additional daily fine not exceeding \$1,000 for each day or part thereof of the contravention. If the contravention continues after the conviction, the builder or specialist builder, as the case may be, will be guilty of a further offence and liable to another daily fine not exceeding \$2,000 for every day or part thereof during which the contravention continues after conviction. The new section 20 continues to make it an offence to contravene any term or condition of any approval of plans of building works or any permit to carry out building works. Any person who permits or authorises building works to deviate in any material way from the approved plans of the building works will also be guilty of an offence, and subject to an enhanced penalty of up to \$100,000 in fine or imprisonment of up to 2 years or both.

The new section 21 empowers the Commissioner of Building Control to require an applicant for approval of plans of building works to pay a pecuniary penalty for the approval of plans relating to any building works in respect of which there appears to the Commissioner of Building Control that an offence has been committed. Under the new section 21, the maximum pecuniary penalty has been reduced from 50 times the prescribed application fee to 10 times the prescribed application fee.

Finally, the new section 22 provides an avenue of appeal to the Minister against any decision of the Commissioner of Building Control to refuse approval of building plans, a permit to carry out structural works, a modification or waiver of the requirements of the building regulations in relation to any particular building works, or a refusal to register or renew the registration of an accredited checker, a specialist accredited checker or an accredited checking organisation. The accredited checker, specialist accredited checker or accredited checking organisation whose registration is cancelled or suspended under the new section 17 may also appeal to the Minister against such cancellation or suspension. The appellant is given 14 days after being served with the notice of the decision to appeal to the Minister, whose decision is final.

Clause 4 amends the Act by inserting a new Part IIIA (comprising new sections 22D, 22E and 22F) to ensure continued compliance with disability and other certain performance requirements for buildings.

The new section 22D sets out the key expressions used in the new Part IIIA. A “person with disability” is defined to mean an individual who has a physical impairment, either of hearing or sight, or an impairment which limits his ability to walk,

or which restricts him to using a wheelchair. The new section also defines things which are to be treated as physical features in relation to buildings.

The new section 22E imposes a duty on the building owner or occupier not to alter, remove or obstruct any physical feature of the building that is in compliance with these building performance requirements so as to cause the physical feature to cease to be in such compliance. It also empowers the Commissioner of Building Control to issue a notice in respect of any building where such alteration, removal or obstruction is carried out. The notice may be issued to the owner of the building or to the occupiers thereof if the owner cannot be found after reasonable efforts. The notice will require the person on whom the notice is served to reinstate the physical feature by carrying out such repairs, works, alterations, or remedial actions as the Commissioner of Building Control may specify therein. If the person on whom the notice is served fails to carry out the requirements of that notice, the person on whom the notice is served will be guilty of an offence (unless he has reasonable excuse) and liable to conviction to a fine not exceeding \$5,000 and, in the case of a continuing offence, to a further fine not exceeding \$500 for every day or part thereof during which the offence continues after conviction. The new section also defines things which are not to be treated as alterations of physical features.

The new section 22F provides that where an appeal is made to the Minister, the Minister may confirm, vary or cancel the decision of the Commissioner of Building Control and his decision is final.

Clause 5 amends the heading to Part IV so as to reflect its expanded coverage to dangerous occurrences.

Clause 6 repeals sections 23 and 24 (relating to the power to order stoppage of dangerous building works) and re-enacts them as new sections 23 and 24.

The new section 23 relates to dangerous building works. As under the present Act, it will allow the Commissioner of Building Control to stop the building works and to order remedial action to be taken. In addition, the Commissioner of Building Control can order an inspection (by himself or a person appointed to act in his behalf) of any building in close proximity with premises at which building works are carried out, and not just those premises, where he is of the opinion that the building works have been or are carried out is likely to cause a collapse of the building. The new section 23 also allows the Commissioner of Building Control to order the person on whose behalf the building works are carried out to pay or reimburse him the cost of such an inspection.

The criminal penalties for failing to comply with the orders of the Commissioner of Building Control under the new section 23 have been increased so as to match the penalties for failing to comply with stop-work and remedial orders under the Workplace Safety and Health Act (Cap. 354A). The penalty for failing to comply with an order to immediately stop building works is a fine of up to \$500,000 or imprisonment up to 2 years or both, and an additional daily fine of up to \$10,000 for each day or part thereof the person fails to comply with the order, and if the failure to comply continues after the conviction, the person can be prosecuted for another offence, which carries a daily fine of up to \$20,000 for each day or part thereof the person fails to comply with the order after conviction. The penalty for failing to comply with any other order is a fine of up



to \$100,000 or imprisonment up to 12 months or both, and an additional daily fine of up to \$2,500 for each day or part thereof the person fails to comply with the order, and if the failure to comply continues after the conviction, the person can be prosecuted for another offence, which carries a daily fine of up to \$5,000 for each day or part thereof the person fails to comply with the order after conviction. This is an increase from a fine of up to \$50,000 or imprisonment of up to 12 months or both, and in the case of a continuing offence, a daily fine of \$1,000 for each day or part thereof during which the offence continues after conviction.

The new section 24 deals with dangerous buildings and allows the Commissioner of Building Control to order remedial works or inspections to be carried out as well as to issue an occupancy order or a closure order. An occupancy order directs the owner or occupier of the dangerous building to not allow more than the number of people stated in the order to be in the building at any time or to otherwise restrict the use of the building, until the Commissioner of Building Control, being satisfied that the building inspection or remedial building works are completed, withdraws the order. A closure order directs every owner and occupier of the building to quit the building and not to allow anyone else to occupy the building except as permitted under this Part. Before making such an order, the Commissioner of Building Control must, if it is reasonably practicable to do so, give notice of his intention to do so.

The criminal penalties for failing to comply with any order of the Commissioner of Building Control under the new section 24 to carry out remedial works or inspections have been increased to correspond to the increase in the penalties under the new section 23. The penalty for failing to comply with an order under the new section 24 is a fine of up to \$100,000 or imprisonment up to 12 months or both, and an additional daily fine of up to \$2,500 for each day or part thereof the person fails to comply with the order, and if the failure to comply continues after the conviction, the person can be prosecuted for another offence, which carries a daily fine of up to \$5,000 for each day or part thereof the person fails to comply with the order after conviction.

Any person to whom any occupancy order or closure order is given must, while the order is in force, display a copy of the order at every entrance to the building to which the order relates. The copy must be displayed in a way that it can be easily read by people outside the building. The penalty for failing to display such an order accordingly is a fine of up to \$10,000 or imprisonment up to 6 months or both. This corresponds to the penalty in section 25(3A) for entering a building in respect of which a closure order is in force.

Clause 7 makes a consequential amendment to section 25(1) by deleting a superfluous definition of closure order.

Clause 8 inserts a new section 25A relating to investigations into dangerous occurrences at sites where building works are or have been carried out. A dangerous occurrence is defined to mean the collapse or structural failure of any building (completed or otherwise) or any structural distress that is likely to lead to the instability of any building (completed or otherwise), whether or not there is any death, bodily injury involved or injury to health. The new section 25A provides for the Commissioner of Building Control to order an investigation into any dangerous

occurrence. It also prohibits any person from altering, replacing, removing or adding to any part of the premises at which any dangerous occurrence happened.

Clause 9 inserts a new Part VA (comprising new sections 29A to 29M) relating to the licensing of builders.

The new section 29A defines the various expressions used in the new Part VA.

The new section 29B makes it an offence to carry on the business of a general builder or specialist builder in Singapore except by or under the authority of a licence. The penalty is a fine of up to \$20,000 or imprisonment of up to 12 months or both.

The new section 29C sets out the various classes of builders' licences. A Class 1 general builder's licence will authorise its holder to carry on the business of a general builder. A Class 2 general builder's licence will also allow the holder to carry on the business of a general builder but restricted to contracts or engagements for an estimated final price each of not more than \$3 million. A specialist builder's licence of the class specified will authorise its holder to carry on the business of a specialist builder of that class.

The new section 29D provides for the keeping of a register of builders and the inspection thereof.

The new section 29E deals with applications for builders' licences and their validity periods. Such licences are renewable.

The new section 29F spells out the qualifying criteria in order for a sole proprietor, a partnership or a corporation to obtain a general builder's licence.

The new section 29G spells out similar qualifying criteria in order for a sole proprietor, a partnership or a corporation to obtain a specialist builder's licence.

The new sections 29H and 29I prescribe various standard conditions for builder's licence.

In the case of Class 1 general builder's licences, the new section 29H sets out the requirement for the licence holder to lodge with the Commissioner of Building Control a manpower programme in respect of each significant general building work project to be undertaken in Singapore by the builder on or after a day to be appointed by the Minister by notification in the *Gazette*. A manpower programme in respect of any particular significant general building work project is a program or scheme specifying the number of different classes of registered construction personnel to be employed by or on behalf of the licensed general builder or to be engaged in connection with that significant general building work project, or the proportion of different classes of registered construction personnel to be employed by or on behalf of the licensed general builder or to be engaged in connection with that significant general building work project, or both. Regulations will prescribe the minimum number or proportion of registered construction personnel to be employed by or on behalf of the licensed general builder or to be engaged in connection with that significant general building work project. The threshold value to qualify as a significant general building work project is a total fee chargeable (including GST) of \$10 million or more.

The new section 29I sets out conditions pertaining largely to the supervision of building works. The Commissioner of Building Control may impose other conditions and modify conditions from time to time.

The new section 29J sets out the circumstances under which a builder's licence can be revoked by the Commissioner of Building Control. The Commissioner of Building Control may also, in any case in which he considers that no cause of sufficient gravity for revoking any general builder's licence or specialist builder's licence exists, make lesser orders, such as suspending the licence for up to 6 months, imposing on the builder concerned a financial penalty not exceeding \$20,000 or imposing other directions or restrictions on the builder's business as a general builder or specialist builder.

The new section 29K provides for appeals against any decision of the Commissioner of Building Control refusing an application for a builder's licence or for the renewal of a builder's licence. The appeal has to be made within 14 days after being notified of such refusal and must be made in the prescribed manner to the Minister, whose decision is final.

The new section 29L empowers the Minister to make regulations for the purposes of the new Part VA.

The new section 29M is a savings and transitional provision. It will allow any person who, immediately before the commencement of clause 9, has been carrying on the business of a general builder or specialist builder in Singapore to continue to do so for a period of 6 months provided that before the end of the 6 months, the person applies for the relevant builder's licence. However, if a general builder's licence or specialist builder's licence is refused or the application for a licence under the Part is withdrawn, the person cannot continue to carry on the business of a general builder or specialist builder in Singapore.

Clause 10 amends section 30 to enable the Minister to exempt persons from the provisions of the Act or the building regulations.

Clause 11 repeals and re-enacts section 31 (relating to corporate offenders) so as to include new entities like limited liability partnerships and unincorporated bodies like societies.

Clause 12 amends section 33 to enable the Commissioner of Building Control to appoint a person to enter premises to ascertain whether there is any contravention of the Act or the building regulations and whether there is a need for the Commissioner of Building Control to take any action thereunder.

Clause 13 amends section 42 (relating to service of documents) to deal with service of documents on corporations, partnerships and bodies of persons.

Clause 14 repeals and re-enacts section 48 relating to composition of offences. The Commissioner of Building Control may compound certain offences by collecting one half of the amount of the maximum fine that is prescribed for the offence or a sum not exceeding \$5,000, whichever is the lower.

Clause 15 amends section 49 to empower the Minister to make building regulations in relation to environmental sustainability measures and reporting of dangerous occurrences. The section is also amended to raise the maximum level of criminal penalties that may be specified for a breach of building regulations. The other amendments are consequential to the introduction of specialist accredited checkers.

Clause 16 inserts a new section 51 which applies the Act to the Government and Government buildings.

Clause 17 repeals the Schedule to the Act containing the types of building works which are exempt from the requirements for building plans approval and a permit to start structural works. These minor building works will be set out in subsidiary legislation, instead of a Schedule to the Act.

Clause 18 raises the criminal penalties for certain provisions in the Act other than those in Parts II and IV which have been repealed and re-enacted above. The potential consequences for future owners and users of buildings and the public of a failure to have building works carried out adequately are the justifications for raising the criminal penalties for non-compliance with the Act.

Clause 19 makes consequential amendments, firstly, to the Building and Construction Authority Act (Cap. 30A) to provide for the registration of construction personnel. The amendment is connected with the new section 29H.

The next consequential amendment is to the Building Maintenance and Strata Management Act 2004 (Act 47 of 2004) to redefine the “person responsible” for the safe maintenance of exterior features of buildings. The definition of a “person responsible” is no longer that in the Building Control Act, which applies to retrofitting works. The definition of “person responsible” in the Building Maintenance and Strata Management Act 2004 is expanded to include tenants and managing agents, as these are persons who have daily charge and use of the exterior features and are in a better position to maintain the exterior features in a safe condition. The defence for an offence under section 9(1) of the Building Maintenance and Strata Management Act 2004 is also expanded to allow the person charged, within 7 days after service on him of any notice alleging that he has been guilty of such offence, to furnish by statutory declaration to the Commissioner of Buildings, the name and address of the contractor, managing agent or other person appointed by the person responsible to manage and maintain the exterior feature at all relevant times relating to the offence concerned and if he can show that he relied, in good faith, on professional or expert advice or service regarding the exterior feature from the contractor, managing agent or other person, the contractor, managing agent or other person may be proceeded against in lieu of the person charged. The remaining amendments correct certain cross-references and expressions.

Clause 20 sets out the transitional and savings provisions to preserve or ensure continuity of documents issued or transactions pending at the date of operation of various amendments in the Bill.

**EXPENDITURE OF PUBLIC MONEY**

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.

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