

LCQ10: Minor Works Control System

Following is a question by the Hon Leung Che-cheung and a written reply by the Secretary for Development, Mr Michael Wong, in the Legislative Council today (July 8):

Question:

The Minor Works Control System aims at facilitating building owners and occupiers to carry out small-scale building works lawfully and safely through simplified requirements. The Building Authority's prior approval of building plans and consent are not required before the commencement of minor works. In this connection, will the Government inform this Council, where a person who arranges for minor works to be carried out on any land (including property) is not the owner of the title to the land but merely an occupier, whether the person is required to, prior to commencement of the works, (i) obtain the consent of all owners of the titles to the land concerned, as well as (ii) consult nearby residents who will be affected by the works?

Reply:

President,

Minor Works Control System (MWCS) aims to provide building owners and occupiers a lawful, simple, safe and convenient way in carrying out small-scale building works. With the MWCS, they can carry out minor works (MW) through simplified requirements without the need for obtaining the prior approval and consent from the Buildings Department (BD).

Under the MWCS, a person who arranges for MW to be carried out can be an owner or occupier of the related private premises or an agent appointed by the aforesaid persons (for example, a consultancy company); if the private premises concerned is a common part of a building, the person can also be an owners' corporation (OC), management company or their appointed agent. The aforesaid persons are required to appoint a Prescribed Registered Contractor (PRC) (Note 1) to carry out MW according to the class, type and item of MW. If Class I MW is involved, a Prescribed Building Professional (PBP) (Note 2) should be appointed in order to ensure compliance with the Buildings Ordinance (BO) and its subsidiary regulations.

The MWCS does not require occupiers to obtain permission from the relevant owners. It also does not require the person who arranges for MW to be carried out to consult the affected residents before the commencement of works. Notwithstanding, any person who wishes to carry out MW in an existing building, specifically at the common parts of the building is obliged to carefully examine the relevant lease and the deeds of mutual covenant (DMC) to ensure that the works do not contravene the relevant conditions. He/she should also consult the co-owners, OC and/or management company where necessary and seek legal advice if in doubt.

If the relevant MW involves the common part of a building, the BD has made reminders regarding consultation arrangements. Firstly, the BD has reminded in the specified form that persons arranging for the MW to be carried out to pay attention to the provisions in the DMC and consult the co-owners, OC and/or management company before the commencement of works. Secondly, the BD has stated clearly in the acknowledgement letter issued upon receipt of a MW submission that per section 61 of the Building (Minor Works) Regulation, the acknowledgement of receipt does not confer any title to land or constitute a waiver of any term in any lease or license. The acknowledgment letter also reminds the relevant parties that if the MW involves the common parts of a building, they should discuss with the co-owners, OC and/or management company and to adhere to the DMC of the building. Otherwise, they may be in breach of the DMC and are therefore liable to civil proceedings and may bear civil liabilities. In addition, the BD has promulgated through various channels including practice notes, the BD's website, mobile application, general guidelines and technical guidelines to remind PBP and PRC to obtain consent from building owners or OC before carrying out MW at the common parts of buildings.

Note 1: PRC refers to Registered General Building Contractors, Registered Specialist Contractors qualified to carry out a category of works under the BO or Registered Minor Works Contractors qualified to carry out the minor works belonging to the class, type and item for which they are registered.

Note 2: PBP refers to Authorized Person or Registered Inspector, and (if applicable) Registered Structural Engineer or Registered Geotechnical Engineer under the BO.