

Handling Building Works

Best Practice Guide

Code No.: G20/2023



Property Management Services Authority

Handling Building Works – Best Practice Guide

Guide No.: G20/2023

Effective Date: 8 December 2023

Preamble

For the purpose of enabling licensees¹ to comply more effectively and professionally with the guidelines set out in the Code of Conduct² entitled Handling Building Works (Code No.: C20/2023) (“Code”) issued by the Property Management Services Authority (“PMSA”) on 8 December 2023, the PMSA provides relevant guidelines in this Best Practice Guide (“Guide”) pursuant to section 44³ of the Property Management Services Ordinance (Cap. 626) (“PMSO”). While licensees are encouraged to use their best endeavours to follow the Guide, failure to comply with the Guide will, however, not be regarded as a disciplinary offence referred to in section 4 of the PMSO.

Background

2. A licensed property management company (“licensed PMC”) may, in respect of the property for which property management services (“PMSs”) are provided by it, from time to time, carry out building works⁴ (including repair, maintenance, alteration and addition (“RMAA”) works) by itself or by engaging contractor, or follow-up on building works carried out by individual flat owners in the property. The PMSA has formulated the Code to provide practical guidance to licensed PMCs on carrying out or following-up on such works, and this Guide aims to enable licensees to comply more effectively and professionally with the guidelines set out in the Code.

¹ The term “licensee” means the holder of the following licence: a PMC licence; a PMP (Tier 1) licence; a PMP (Tier 2) licence; a provisional PMP (Tier 1) licence; or a provisional PMP (Tier 2) licence.

² With regard to the Code of Conduct containing practical guidance issued by the PMSA under section 5 of the PMSO for the purpose of section 4 of the PMSO (disciplinary offences), although a licensee does not incur a legal liability only because the licensee has contravened a provision of the Code of Conduct, the Code of Conduct is admissible in evidence in disciplinary hearings, and proof that a licensee contravened or did not contravene the relevant provision of the Code of Conduct may be relied on as tending to establish or negate a matter that is in issue in the hearings.

³ Section 44 of the PMSO provides: “The Authority may do anything it considers appropriate for it to do for, or in relation to, the performance of its functions”.

⁴ According to Section 2 of the Buildings Ordinance (Cap. 123), “building works” include any kind of building construction, site formation works, ground investigation in the scheduled areas, foundation works, repairs, demolition, alteration, addition and every kind of building operation, and include drainage works.

3. Obligations Towards Property / Building Works

3.1 Duties of Owners

3.1.1 An owner⁵ of a property owns undivided shares of the land on which the building is erected, and also co-owns with other owners the common parts and facilities of that land; hence owners have full and ultimate duty regarding building works carried out in the concerned property, and the common parts and facilities owned by them.

3.2 Common Law Duty of Care

3.2.1 The owner of a landed property has a common law duty of care to maintain the property. The owner may be held liable for personal injury and / or property damage arising from failure to observe the duty. Therefore, the owner has to use, maintain, repair and handle properly building works carried out in the concerned property, and the common parts and facilities owned by them so as to avoid causing personal injury and / or property damage to the public.

3.3 Buildings Ordinance (Cap. 123)

3.3.1 Building works carried out in private properties are regulated by the Buildings Ordinance in order to ensure that the concerned planning, design and construction all meet the statutory safety and hygiene standards. According to the requirements of the Buildings Ordinance, the Building Authority⁶ may issue a repair order to an owner requiring the owner to make good dangerous or defective parts of a building, e.g. dilapidated structural elements or outer walls, dangerous slopes or retaining walls, defective drainage system, etc.; an investigation order requiring the owner to carry out investigation so as to evaluate required remedial or restoration works; and a removal order requiring the owner to remove unauthorised building works (“UBW”)⁷. The Building Authority may also issue to targeted building owners mandatory building inspection notice and mandatory window inspection notice, demanding prescribed inspection and repair to be conducted. The Buildings Department may prosecute owners failing to comply with the order / notice without reasonable excuse.

3.3.2 In accordance with the Buildings Ordinance, the Buildings Department may prosecute any person who obstructs the owners’ corporation in complying with the

⁵ The term “owner” has the same meaning as defined by section 2 of the BMO, i.e. “(a) a person who for the time being appears from the records at the Land Registry to be the owner of an undivided share in land on which there is a building; and (b) a registered mortgagee in possession of such share”.

⁶ According to Section 2 of the Buildings Ordinance, “Building Authority” means the Director of Buildings.

⁷ Orders issued by the Buildings Department in accordance with Section 24 (i.e. removal order), Section 26 (i.e. building repair order), Section 26A (i.e. building investigation order), Section 27A (i.e. slope repair order) and Section 28 (i.e. drainage repair / investigation order) of the Buildings Ordinance.

requirements of the order / notice without reasonable excuse. The Buildings Department may prosecute any person who obstructs the Building Authority, any officer authorized by him or any other public officer, in the exercise of his power under the Buildings Ordinance.

3.3.3 In addition, in accordance with the Buildings Ordinance, excluding exempted works, additions and alterations to a building carried out without the prior approval and consent of the Buildings Department or without complying with the simplified requirements of the Minor Works Control System are deemed UBW. The Buildings Department may prosecute any person who intentionally conducts or erects UBW.

3.4 Building Management Ordinance (Cap. 344) (“BMO”)

3.4.1 If a property has an owners’ corporation (“OC”), the OC has to be responsible for the management of the common parts and facilities of the building in accordance with the BMO and maintain them in a state of good and serviceable condition.

3.5 Occupiers Liability Ordinance (Cap. 314)⁸

3.5.1 In the event of failure to use, maintain, repair and handle properly building works of the property causing injury or death to a third party, the owner / OC can be held legally liable for a breach of the Occupiers Liability Ordinance. Therefore, the owner / OC has to comply with the relevant law to ensure the reasonable safety of third parties in the property.

3.6 Deed of Mutual Covenant (DMC) of a property

3.6.1 The DMC of a property is a legal document which is binding on all owners of the property and stipulates clearly the rights, interests and obligations of owners, the PMC, etc. regarding the supervision, repair, maintenance and management of private areas, common parts and facilities, etc. within the property.

3.7 General duties of a licensed PMC

3.7.1 A licensed PMC has to, in respect of the property for which PMSs are provided by it, remind the owners’ organisation⁹ (if any) and the owners that they have full and ultimate duty regarding building works (including RMAA works) in the concerned

⁸ The Occupiers Liability Ordinance imposes on an occupier of premises, that is the person in control of the premises, a duty to his visitors to take such care as is reasonable in the circumstances to see that his visitors will be reasonably safe in using the premises for the permitted purposes.

⁹ The term “owners’ organisation” has the same meaning as defined by section 2 of the PMSO i.e. “in relation to a property, means an organisation (whether or not formed under the BMO or a DMC) that is authorised to act on behalf of all the owners of the property”.

property, and the common parts and facilities owned by them, and that they have to perform such duty in accordance with the BMO and the DMC of the property.

Building works in common parts of the property

Code: A(1) A licensed PMC has to, in respect of the property for which PMSs are provided by it, handle properly building works carried out in the common parts and facilities of the property, and so far as reasonably practicable, obtain agreement¹⁰ from the owners' organisation (including OC) (if any) to carry out such works so as to ensure public safety.

A(2) If the works referred to in paragraph A(1) of the Code involve alteration and addition works which are carried out by the licensed PMC itself, the licensed PMC has to ensure that it:

- (a) consults the prescribed building professionals¹¹ for advice before carrying out the works to ensure that the works comply with the requirements in relevant laws and regulations (including the Buildings Ordinance and the DMC of the property);
- (b) submits formal application to the Building Authority¹² for approval (if applicable) in order to carry out the works¹³;
- (c) if the alteration and addition works are minor works, carries out the works in compliance with the simplified requirements of the Minor Works Control System;
- (d) does not carry out illegal building works (including UBW¹⁴);

¹⁰ The agreement should not affect the work of a licensed PMC as the manager to carry out its duties pursuant to the BMO or the DMC of the respective property. The term "manager" has the same meaning as that defined by section 34D of the BMO.

¹¹ According to Section 2 of the Buildings Ordinance, a "prescribed building professional" means an authorized person, a registered structural engineer, a registered geotechnical engineer or a registered inspector. Information on "prescribed building professionals" and relevant contractors can be found at <https://www.bd.gov.hk/en/resources/online-tools/registers-search/registrationsearch-disclaimer.html>

¹² Please refer to footnote 6.

¹³ Please refer to Section 14(1) of the Buildings Ordinance for details.

¹⁴ Additions and alterations to a property carried out without the prior approval and consent of the Buildings Department or without complying with the simplified requirements of the Minor Works Control System are deemed UBW. For details, please refer to the website of the Buildings Department. If in doubt, please consult prescribed building professionals.

- (e) ensures that the works comply with the DMC of the property;
and
- (f) engages qualified contractors, including registered general building contractors (RGBCs), registered specialist contractors (RSCs) or registered minor works contractors (RMWCs) to carry out such works¹⁵.

A(3) If the works referred to in paragraph A(2) of the Code are carried out by a contractor engaged by a licensed PMC or an owners' organisation (if any), the licensed PMC has to ensure that the contractor:

- (a) consults the prescribed building professionals¹⁶ for advice before carrying out the works to ensure that the works comply with the requirements in relevant laws and regulations (including the Buildings Ordinance and the DMC of the property);
- (b) submits formal application to the Building Authority¹⁷ for approval (if applicable) in order to carry out the works¹⁸;
- (c) if the alteration and addition works are minor works, carries out the works in compliance with the simplified requirements of the Minor Works Control System;
- (d) does not carry out illegal building works (including UBW¹⁹);
- (e) ensures that the works comply with the DMC of the property;
and
- (f) engages qualified contractors, including registered general building contractors (RGBCs), registered specialist contractors (RSCs) or registered minor works contractors (RMWCs) to carry out such works²⁰.

¹⁵ Information on registered contractors can be found at the website of the Buildings Department - <https://www.bd.gov.hk/en/resources/online-tools/registers-search/registrationsearch-disclaimer.html>

¹⁶ Please refer to footnote 11.

¹⁷ Please refer to footnote 12.

¹⁸ Please refer to footnote 13.

¹⁹ Please refer to footnote 14.

²⁰ Please refer to footnote 15.

Guide:

a(1) When handling such works, a licensed PMC should:

- (a) refer to the relevant guidelines and codes issued by the Buildings Department²¹ and relevant requirements in the Code of Practice on Building Management and Safety issued by the Secretary of Home and Youth Affairs under the BMO²², and remind and assist the owners' organisation (if any) to comply with the relevant laws and regulations in order to carry out such works;
- (b) choose registered contractors with good reputation which possess recognised qualifications concerned, work experience and professional expertise to carry out such works²³;
- (c) so far as reasonably practicable, incorporate the relevant guidelines of the Code (e.g. paragraphs A(3)(a)-(f) of the Code) into the contract entered into with the contractor;
- (d) remind the owners / owners' organisation (if any) the importance of regular repair and maintenance of the property, and so far as reasonably practicable, assist the owners / owners' organisation to formulate an inspection schedule in respect of the common parts of the property (including external walls, building structure, ceilings, escape routes and drainage systems, etc.), and do so in accordance with the standards and procedures of the mandatory building / window inspection scheme to ensure that the property is properly maintained and that early repair can be carried out; and
- (e) if there is no owners' organisation, so far as reasonably practicable, inspect regularly the property by itself in accordance with the standards and procedures of the mandatory building / window inspection scheme to ensure that the property is properly maintained and that early repair can be

²¹ Please refer to Building Department's website: <https://www.bd.gov.hk/en/resources/index.html>

²² For details, please refer to paragraph 3 of the Code of Practice on Building Management and Safety (Revised Version Effective from 1 September 2018) issued by the Secretary for Home and Youth Affairs under Section 44(1)(a) of the BMO:
[https://www.buildingmgt.gov.hk/file_manager/en/documents/code_of_practice/221805064_HAD%20\(eng\)\(full\).pdf](https://www.buildingmgt.gov.hk/file_manager/en/documents/code_of_practice/221805064_HAD%20(eng)(full).pdf)

²³ If carrying out alteration and addition works or minor works, a registered contractor should be engaged. The register is listed on the website of the Buildings Department for perusal (please refer to footnote 15). In addition, reference can be made to the register of the Registered Specialist Trade Contractors Scheme (RSTCS) under the Construction Industry Council (<https://rstc.cic.hk/en/register-list.aspx>).

carried out.

Building Works in individual flats of the property

Code: B(1) A licensed PMC has to, in respect of the property for which PMSs are provided by it, draw up the terms and procedures for processing application for carrying out building works in individual flats of the property (“application”) (if there is no owners’ organisation); or consult²⁴ with the owners’ organisation (if any) on the terms and procedures for processing such application in accordance with the BMO and the DMC.

B(2) If the works referred to in paragraph B(1) of the Code involve alteration and addition works, before the concerned owners carry out the works, the licensed PMC has to:

- (a) remind the owners to consult prescribed building professionals for advice to ensure that the works comply with the requirements in the relevant laws and regulations (including the Buildings Ordinance and the DMC of the property, etc.), and engage qualified contractors, including registered general building contractors (RGBCs), registered specialist contractors (RSCs) or registered minor works contractors (RMWCs) to carry out such works;
- (b) require the owners to provide relevant information (e.g. drawings signed by a building professional) to show the scope of the alteration and addition works, information on the building professional and contractor engaged by the owners, and the Building Authority’s written approval and approved plans or design drawings (if approval from the Building Authority is required for the works); and
- (c) if approval from the Building Authority is required for the works, remind the owners to carry out the works in accordance with the Building Authority’s approval and approved plans or design drawings, and not to carry out any illegal building works

²⁴ The consultation should not affect the work of a licensed PMC as the manager to carry out its duties pursuant to the BMO or the DMC of the respective property. The term “manager” has the same meaning as that defined by section 34D of the BMO.

(including UBW²⁵); and if the works are minor works, remind the owners to comply with the simplified requirements of the Minor Works Control System.

- B(3) If the application for the works is submitted by the occupier and not the owner of the individual flat of the property, a licensed PMC has to require the occupier to submit the owner's authorisation document regarding approval of carrying out the works, and act in accordance with B(1) and B(2).

Moreover, the licensed PMC also has to remind the owner that the works shall comply with the DMC of the property.

Guide:

- b(1) When alteration and addition works are carried out in flats of individual owners, a licensed PMC should, so far as reasonably practicable, provide proper assistance to the concerned owners, including providing information on the structural parts of the property (e.g. acquiring the latest version of the relevant plans from the related Government department (if applicable)), relevant clauses extracted from the DMC, points to note when carrying out the works, relevant guidelines, and list of emergency contact points, etc.
- b(2) A licensed PMC should, so far as reasonably practicable, assist to mediate in the capacity of a third party, disputes between owners arising from building works carried out in individual flats of the property.
- b(3) A licensed PMC should remind owners to refer to the relevant guidelines and codes issued by the Buildings Department²⁶ and relevant requirements in the Code of Practice on Building Management and Safety issued by the Secretary of Home and Youth Affairs under the BMO²⁷ in order to carry out such works.

²⁵ Please refer to footnote 14.

²⁶ Please refer to footnote 21.

²⁷ Please refer to footnote 22.

Monitoring building works in property and keeping record

Code: C(1) A licensed PMC has to, so far as reasonably practicable, monitor properly and keep record of building works referred to in this Code and carried out in property for which PMSs are provided by it. If abnormalities are found (e.g. there are suspected illegal building works), the licensed PMC has to notify the owner / occupier to take appropriate follow-up action.

C(2) If a licensed PMC discovers that the contractor or owner / occupier contravenes the concerned legal provisions when carrying out the works referred to in paragraph A(3) or B(2) of this Code, it has to, so far as reasonably practicable, instruct the contractor concerned or demand the owner / occupier to cease the works immediately, make rectification, document the concerned works and carry out appropriate follow-up work (including reporting the incident to relevant enforcement agencies) and notify timely the owners' organisation (if any). If the concerned non-compliance has not been properly dealt with, so far as reasonably practicable, the works are not to be proceeded with.

Guide:

c(1) A licensed PMC should:

- (a) under general circumstances:
 - (i) besides making regular inspection, strengthen inspection before rainy and typhoon season in order to ensure the common parts and facilities of the property function safely and properly;
 - (ii) keep record of each application for building works in the property and relevant information about the works (e.g. those stipulated in paragraphs A(2), A(3), B(2), B(3) of the Code, information and attendance record of workmen during the works (including staff of the consultant, interior design company and contractors)), store properly the relevant records, documents and information for not less than one year, and pursuant to written request (if applicable) made by the owners' organisation (if any) or statutory requirement, provide such information timely for perusal; and
 - (iii) keep proper record of building works contracts entered into with

contractors and relevant documents for not less than six years²⁸.

- (b) while the building works are being carried out:
 - (i) so far as reasonably practicable, timely inspect the works;
 - (ii) without affecting fire escape routes, cordon off the common parts affected by the works so as to ensure the safety of other persons;
 - (iii) avoid carrying out the works outdoor under bad weather conditions (e.g. rainstorm or gales);
 - (iv) if the works generate excessive noise (e.g. making or causing to be made any noise which is a source of annoyance to any person between the hours of 11 p.m. and 7 a.m., or at any time on a general holiday in any domestic premises²⁹) or are carried out outside designated hours, or cause environmental hygiene issues (e.g. failure to properly deal with waste / sewage, etc.), remind the contractor and/or owner or authorised person concerned to make improvement;
 - (v) if labour³⁰ or building safety issues arise, notify the contractor or owner concerned immediately to rectify the problem and with regard to the severity of the incident inform relevant Government departments and agencies (including the Labour Department and/or the Buildings Department) for follow-up;
 - (vi) if illegal building works are discovered, so far as reasonably practicable, first require the contractor or owner concerned to cease the relevant works and make rectification, and report timely the incident together with the information and evidence gathered to the relevant Government departments and agencies (including the Buildings Department) for follow-up; and
 - (vii) if illegal works are found in an individual flat and the concerned owner / occupier refuses to permit entry for licensed PMC personnel to inspect, report timely to the relevant Government departments and agencies (including the Buildings Department) together with the relevant information (if any) gathered for follow-up.

²⁸ The guideline is made with reference to Section 20A(4) of the BMO.

²⁹ For details, please refer to Section 4 of the Noise Control Ordinance (Cap. 400).

³⁰ Regarding labour safety, please refer to the relevant requirements in the Factories and Industrial Undertakings Ordinance (Cap. 59) and the Occupational Safety and Health Ordinance (Cap. 509).

Notification and follow-up work on building works

Code: D(1) A licensed PMC has to display notice in prominent place in the lobby of the property concerned to inform owners and relevant persons about the building works before such works commence.

D(2) After completion of the building works, a licensed PMC has to clear up by itself (if the works are carried out by itself); or supervise the contractor or owner concerned to clear up the affected area, and properly restore damaged facilities and areas arising from the works.

Guide:

d(1) A licensed PMC should include in the notice:

- (a) the works area (e.g. flat and floor (if applicable) of the owner carrying out the works) or facility, work nature and duration; and
- (b) a reminder to the owners / occupiers, especially for owners / occupiers of flats which may be affected that they should remain vigilant when the works are in progress (e.g. owners / occupiers of nearby flats of the works (if applicable) should close their windows (if applicable)) and that the affected area would be cordoned off during the works.

UBW, dangerous / defective building or defective drainage system

Code: E(1) If a licensed PMC discovers or receives a report on UBW, dangerous / defective building or defective drainage system within the property, it has to firstly take action timely and properly in accordance with paragraphs (a)-(c) below:

- (a) if the UBW, dangerous / defective building or defective drainage system are common parts or facilities of the property:
 - (i) report and propose to owners / owners' organisation (if any) to make good and repair, or with agreement from owners / owners' organisation (if any), arrange timely for removal / remedial / repair works to be carried out;
 - (ii) if there is no owners' organisation, so far as reasonably practicable, arrange timely for removal / remedial / repair works to be carried out by itself; and
 - (iii) remind owners / owners' organisation (if any) that they bear legal responsibility as stated in paragraphs 3.1.1 to

3.6.1 above, and failure to remove the UBW and repair properly dangerous / defective building or defective drainage system may contravene the Buildings Ordinance and lead to prosecution.

- (b) if the UBW, dangerous / defective building or defective drainage system are common parts or facilities of the property which are located within a flat of an individual owner, remind owners / owners' organisation (if any) that they bear legal responsibility as stated in paragraphs 3.1.1 to 3.6.1 above, and failure to remove the UBW and repair properly dangerous / defective building or defective drainage system may contravene the Buildings Ordinance and lead to prosecution.
- (c) if the UBW, dangerous / defective building or defective drainage system concerns a flat of an individual owner:
 - (i) report to the owners' organisation (if any) and require the concerned owner to carry out removal / remedial / repair works;
 - (ii) if there is no owners' organisation, require by itself the concerned owner to carry out removal / remedial / repair works; and
 - (iii) remind the concerned owner that there is legal responsibility as stated in paragraphs 3.1.1 to 3.6.1 above, and failure to remove the UBW and repair properly dangerous / defective building or defective drainage system may contravene the Buildings Ordinance and lead to prosecution.
- (d) if any owner obstructs³¹ the handling of UBW, dangerous / defective building, defective drainage system, etc. in common parts of the property, or fails to handle properly regarding paragraphs E(1)(a) - (c) of this Code, report to the relevant Government departments and agencies (including the Buildings

³¹ According to Section 40(4B) of the Buildings Ordinance, any person who without reasonable excuse obstructs the owners' corporation in complying with the requirements of the order / notice shall be guilty of an offence and shall be liable on conviction to a fine at level 3 and to imprisonment for 6 months.

Department)³² for follow-up.

E(2) A licensed PMC has to tie in with the operation of relevant Government departments and agencies in handling the aforementioned matters (e.g. arrange for inspection of common parts and facilities of the property, assist in contacting concerned owners / occupiers to allow authorised persons to access individual flats of the property to carry out inspection, posting relevant orders and carrying out the required works (if applicable))³³.

Guide:

e(1) A licensed PMC should:

- (a) so far as reasonably practicable, consult the prescribed building professionals for advice before carrying out removal / remedial / repair works by itself or by engaging contractors;
- (b) choose registered contractors with good reputation which possess recognised qualifications concerned, work experience and professional expertise to carry out the works³⁴;
- (c) if the removal / remedial / repair works are minor works, carry out the works in compliance with the simplified requirements of the Minor Works Control System;
- (d) remind owners to consult the prescribed building professionals for advice before carrying out the works;
- (e) so far as reasonably practicable, provide proper assistance to the concerned owners, including providing information on the structural parts of the property, clauses extracted from the relevant DMC, points to note when carrying out the works, relevant guidelines, and list of emergency contact points, etc.;
- (f) so far as reasonably practicable, assist to mediate in the capacity of a

³² According to Section 22(1) of the Buildings Ordinance, the Building Authority or an authorized officer (if entry is permitted or a warrant is obtained) may at any time enter and where necessary, in the presence of a police officer, any premises or enter upon any land, (a) to ascertain whether any building, structure, street or natural, formed or man-made land is dangerous or liable to become dangerous; (b) to inspect or test any groundwater drainage works, drainage works, drainage system, sewerage works or sewerage system; (c) to ascertain whether the provisions of the Buildings Ordinance or of any notice order or regulation hereunder are being complied with; (d) to carry out or cause to be carried out any work which he is authorized to carry out under the Buildings Ordinance.

³³ According to Section 40(2AAA) of the Buildings Ordinance, any person who obstructs the Building Authority, any officer authorized by him or any other public officer, in the exercise of his power under the Buildings Ordinance, shall be guilty of an offence and shall, without prejudice to any other penalty, be liable on conviction to a fine at level 3 and to imprisonment for 6 months.

³⁴ Please refer to footnote 23.

third party, disputes between owners arising from the aforementioned matters; and

- (g) if UBW, dangerous / defective building or defective drainage system in the property are not properly handled by the concerned owners, report to the relevant Government departments and agencies (including the Buildings Department) together with the relevant information (if any) gathered for follow-up.

Orders / Notices issued by the Buildings Department

Code: F(1) When a licensed PMC receives or is notified of an order³⁵ issued by the Buildings Department such as removal order, inspection order, repair order, etc. or mandatory building³⁶ / window³⁷ inspection notice, it has to deal with the matter properly, including :

- (a) if the order / notice concerns the common parts and facilities of the property:
 - (i) report and propose to the owners' organisation (if any) to deal with the matter in accordance with the order / notice, or with agreement from the owners / owners' organisation (if any), arrange for relevant works to be carried out so as to comply with the order / notice; and
 - (ii) if there is no owners' organisation, so far as reasonably practicable, arrange for relevant works to be carried out by itself so as to comply with the order / notice.
- (b) if the order / notice concerns common parts and facilities of the property which are located within a flat of an individual owner, remind the concerned owner that he/she cannot obstruct the inspection, works or other actions to be carried out in compliance with the order / notice by it or a contractor engaged by it or the owners' organisation³⁸, otherwise he/she may

³⁵ Please refer to footnote 7.

³⁶ According to Section 30B(3) of the Buildings Ordinance, the Building Authority may by notice in writing served on any owner of a building require a prescribed inspection and, if necessary, prescribed repair in respect of the common parts of the building to be carried out within a specified time.

³⁷ According to Section 30C(3) of the Buildings Ordinance, the Building Authority may by notice in writing served on any owner of a building require a prescribed inspection and, if necessary, prescribed repair in respect of the windows in the building to be carried out within a specified time.

³⁸ According to Section 39B(1) of the Buildings Ordinance, a person who has been notified by an owners' corporation of a building that an order or notice has been served on the owners' corporation under any provision of this Ordinance in relation to any common parts of the building must not (a) obstruct a person employed or engaged by the owners' corporation in the carrying out of any inspection, investigation, works or other action that is required for the purpose of complying with the order or notice; or (b) refuse to allow a person employed or engaged by the owners' corporation access to or the use of any premises, which is reasonably necessary for the carrying out of any inspection, investigation, works or other action that is required for the purpose of complying with the order or notice.

contravene the Buildings Ordinance³⁹.

- (c) if the order / notice concerns a flat of an individual owner, report to the owners' organisation (if any) and require the concerned owner to arrange for relevant works to be carried out so as to comply with the order / notice. If there is no owners' organisation, require by itself the concerned owner to arrange for relevant works to be carried out so as to comply with the order / notice.
- (d) if any owner obstructs the handling of matters relating to the order / notice, or fails to handle properly with respect to paragraph F(1)(c) of this Code, report to the relevant Government departments and agencies (including the Buildings Department)⁴⁰ for follow-up.

F(2) A licensed PMC has to tie in with the operation of relevant Government departments and agencies in handling the aforementioned orders / notices (e.g. arrange for inspection of the common parts and facilities of the property, assist in contacting concerned owners / occupiers to allow authorised persons to access individual flats of the property to carry out inspection and the required works (if applicable))⁴¹.

Guide:

f(1) A licensed PMC should:

- (a) so far as reasonably practicable, consult the prescribed building professionals for advice before carrying out relevant works by itself or by engaging contractors;
- (b) choose registered contractors with good reputation which possess recognised qualifications concerned, work experience and professional expertise to carry out the works⁴²;
- (c) if the removal / remedial / repair works are minor works, carry out the works in compliance with the simplified requirements of the Minor Works Control System;
- (d) remind the concerned owners to consult the prescribed building professionals for advice before carrying out the works;
- (e) so far as reasonably practicable, provide proper assistance to the

³⁹ According to Section 40(4B) of the Buildings Ordinance, any person who without reasonable excuse contravenes Section 39B(1) shall be guilty of an offence and shall be liable on conviction to a fine at level 3 and to imprisonment for 6 months.

⁴⁰ Please refer to footnotes 31 and 32.

⁴¹ Please refer to footnote 33.

⁴² Please refer to footnote 23.

concerned owners, including providing information on the structural parts of the property, clauses extracted from the relevant DMC, points to note when carrying out the works, relevant guidelines, and list of emergency contact points, etc.; and

- (f) if the orders / notices are not properly followed-up, report to the relevant Government departments and agencies (including the Buildings Department) together with the relevant information (if any) gathered for follow-up.

END

1. If there is any inconsistency between the Chinese version and the English version of this Guide, the Chinese version shall prevail.
2. If there are any amendments to any ordinances or regulations covered in this Guide, licensees have to act in accordance with those prevailing amended provisions.



Related Code of Conduct

Property Management Services Authority

📍 Units 806-8, 8/F, Dah Sing Financial Centre,
248 Queen's Road East, Wan Chai, Hong Kong

☎ (852) 3696 1111

🖨 (852) 3696 1100

@ enquiry@pmsa.org.hk

