

Property Management Services Authority

Code of Conduct

Handling Scaffolding Works

Code No.: C13/2022

Effective Date: 29 July 2022

Latest Revision Date: 19 October 2024

Preamble

The following code of conduct (“Code”) is issued by the Property Management Services Authority (“PMSA”) pursuant to section 5 of the Property Management Services Ordinance (“PMSO”) and contains practical guidance for the purposes of section 4 of the PMSO (disciplinary offences). Although a licensee¹ does not incur a legal liability only because the licensee has contravened a provision of the Code, the Code is admissible in evidence in disciplinary hearings, and proof that a licensee contravened or did not contravene the relevant provision of the Code may be relied on as tending to establish or negate a matter that is in issue in the hearings.

Background

2. A licensed property management company (“PMC”) may, in respect of property for which property management services (“PMSs”) are provided by it, from time to time, (a) carry out by itself construction work² involving scaffolding work³; (b) appoint a

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 The Factories and Industrial Undertakings Ordinance (Cap. 59) is applicable to industrial undertakings; and industrial undertakings include any “construction work”, defined according to section 2 of the ordinance as (a) the construction, erection, installation, reconstruction, repair, maintenance (including redecoration and external cleaning), renewal, removal, alteration, improvement, dismantling, or demolition of any structure or works specified in Schedule 3 (refer to **Annex 1**); (b) any work involved in preparing for any operation referred to in paragraph (a), including the laying of foundations and the excavation of earth and rock prior to the laying of foundations; (c) the use of machinery, plant, tools, gear, and materials in connexion with any operation referred to in paragraph (a) or (b).

³ According to section 2 of the Construction Sites (Safety) Regulations (Cap. 59I), “scaffold” means any temporarily provided structure on or from which persons perform work in connexion with operations or works to which these regulations apply, and any temporarily provided structure which enables persons to obtain access to or which enables materials to be taken to any place at which such work is performed, and includes any working platform, gangway, run, ladder or step-ladder (other than an independent ladder or step-ladder which does not form part of such a structure) together with any guard-rail, toe-board or other safeguards and all fixings, but does not include a lifting appliance or a structure used merely to support such an appliance or to support other plant or equipment.

contractor to carry out construction work involving scaffolding work; or (c) handle applications for erection of scaffolds made by individual flats for construction work carried out in respect of the flats involving scaffolding work. The PMSA has formulated the Code to provide practical guidance to licensed PMCs and their licensed PMPs on carrying out scaffolding work.

Factories and Industrial Undertakings Ordinance (Cap. 59)

3.1 The Code of Practice for Bamboo Scaffolding Safety⁴ (“Code of Practice”) is issued by the Labour Department under Section 7A of the Factories and Industrial Undertakings Ordinance. It provides practical guidance for the compliance with the requirement set out in Sections 6A & 6B of the Factories and Industrial Undertakings Ordinance and the requirement of the Construction Sites (Safety) Regulations regarding safety at work involving the erection, substantial addition, alteration, dismantling and use of bamboo scaffolds. The Code of Practice especially requires that workmen responsible for erection, substantial addition, alteration and dismantling of truss-out bamboo scaffolding shall hold specific and valid certificate of safety training, including certificate of “Intermediate Level Truss-out Scaffold Safety Training” or “Advanced Level Truss-out Scaffold Safety Training” (refer to sample in **Annex 2**).

3.2 The Code of Practice has a special legal status. Although failure to observe any provision of the Code of Practice is not itself an offence, that failure may be taken by a court in criminal proceedings as a relevant factor in determining whether or not a person has breached the relevant safety and health legislation under the Factories and Industrial Undertakings Ordinance.

Duties of Owners

4.1 An owner⁵ of a property owns undivided shares of the land on which the property 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.

⁴ Code of Practice for Bamboo Scaffolding Safety issued by the Labour Department (<https://www.labour.gov.hk/eng/public/os/B/Bamboo.pdf>).

⁵ The term “owner” has the same meaning as defined by section 2 of the PMSO, 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”.

4.2 Apart from the legislation and codes aforementioned in paragraphs 3.1 and 3.2, other laws and regulations, terms, codes of practice and guidelines relevant to construction work (involving scaffolding work) in respect of a property also include the following:

Common Law Duty of Care

4.2.1 The owners of a landed property have a common law duty of care to maintain the property. The owners may be held liable for personal injury and/or property damage arising from failure to observe the duty. Therefore, the owners have to properly use, maintain, repair and handle 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.

Occupiers Liability Ordinance (Cap. 314)⁶

4.2.2 In the event of failure to properly use, maintain, repair and handle building works of the property causing injury or death to third parties, the owners / owners' corporation ("OC") can be held legally liable for a breach of the Occupiers Liability Ordinance. Therefore, the owners / OC have to comply with the relevant law to ensure the reasonable safety of third parties in the property.

Deed of Mutual Covenant ("DMC") of a Property

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

General Duties of a Licensed PMC

5. A licensed PMC has to, in respect of the property for which PMSs are provided by it, remind the owners' organisation⁷ (if any) and the owners that they have full and

⁶ The Occupiers Liability Ordinance imposes on an occupier of premises, that is the person in control of the premises, a duty to his/her visitors to take such care as is reasonable in the circumstances to see that his/her visitors will be reasonably safe in using the premises for the permitted purposes.

⁷ The term "owners' organization" has the same meaning as defined by section 2 of the PMSO i.e. "in relation to a property, means an organization (whether or not formed under the Building Management Ordinance (Cap. 344) (BMO) or a deed of mutual covenant) that is authorised to act on behalf of all the owners of the property".

ultimate duty regarding the common parts and facilities of the property owned by them, and that they have to perform such duty in accordance with relevant regulations, provisions, code and guidelines, and the DMC of the property. This includes, when carrying out construction work⁸ which involves scaffolding work, properly handling the erection and use of scaffold to prevent and avoid accidentally causing personal injury and/or property damage to the public.

PMC carrying out scaffolding work by itself

Code : A(1) A licensed PMC, when carrying out construction work by itself (i.e. without engaging a contractor) involving work on a scaffold (commonly “tubular scaffolds” constructed in tubes and couplers for the purpose of providing working platform⁹) for the property in respect of which PMSs are provided by it, has to:

- (a) so far as reasonably practicable, ensure the health and work safety of the staff members carrying out the respective works in accordance with section 6A of the Factories and Industrial Undertakings Ordinance and section 6 of the Occupational Safety and Health Ordinance (Cap. 509) (“OSH Ordinance”) (the regulations at **Annex 3** and **Annex 4** refer); and
- (b) ensure that the staff members carrying out the respective works are holders of relevant certificates in accordance with section 6BA of the Factories and Industrial Undertakings Ordinance (the regulations at **Annex 5** refer).

A(2) Regarding the work mentioned in paragraph A(1) of the Code, if the workers are employed directly by an owners’ organization (if any), the licensed PMC has to inform the owners’ organization of the regulations stipulated in **Annex 3** to **Annex 5** and remind them to abide by those regulations.

⁸ Refer to footnote 2.

⁹ Refer to Section 5.2 – Tubular Scaffolds of the “Code of Practice for Metal Scaffolding Safety” issued by the Labour Department (<https://www.labour.gov.hk/eng/public/os/B/mss.pdf>).

PMC arranging for scaffolding work

Code : B(1) A licensed PMC, when engaging a contractor to carry out construction work involving scaffolding work in respect of the property in respect of which PMSs are provided by it, has to:

- (a) ensure that the contractor concerned abides by the contractual terms of the scaffolding work contract entered into;
- (b) remind the contractor concerned to abide by relevant laws/ subsidiary legislations¹⁰ and guidelines¹¹ issued by relevant authorities;
- (c) remind the contractor concerned to ensure that, so far as is reasonably practicable, suitable and adequate safe access to and egress from the place of work is provided and properly maintained¹²;
- (d) remind the contractor concerned to take adequate steps to prevent any person from falling from a place of work with a height of 2 metres or more¹³;
- (e) remind the contractor concerned that the scaffold has to be erected, substantially added, altered and dismantled by trained workers (refer to **Annex 6**) under the direction and immediate supervision of a competent person (refer to **Annex 7**)¹⁴;

¹⁰ The relevant laws / subsidiary legislations are e.g. Factories and Industrial Undertakings Ordinance, Construction Sites (Safety) Regulations, Occupational Safety and Health Ordinance and the requirement that the employer concerned has to take out employees' compensation insurance under the Employees' Compensation Ordinance (Cap. 282), etc.

¹¹ Guidelines issued by relevant organisations include:

- (i) Code of Practice for Bamboo Scaffolding Safety issued by the Labour Department (<https://www.labour.gov.hk/eng/public/os/B/Bamboo.pdf>);
- (ii) "Guide on Construction and Work Safety of Truss-out Bamboo Scaffolds" (https://www.labour.gov.hk/eng/public/pdf/os/D/TOS_Guidance_notes_eng.pdf);
- (iii) 勞工處特函—在合資格的人的直接監督下架設、相當程度上的擴建、更改或拆卸棚架(Ref(8) in LD ELD/1-10/1)(<https://www.housingauthority.gov.hk/mini-site/site-safety/common/resources/alerts/2019/SH-2019-48c-LD.pdf>) (only available in Chinese);
- (iv) Guidelines on the Design and Construction of Bamboo Scaffolds issued by the Buildings Department (<https://www.bd.gov.hk/doc/en/resources/codes-and-references/code-and-design-manuals/GDCBS.pdf>) and;
- (v) Guidelines on Safety Enhancement of and Notification Arrangement for Truss-out Bamboo Scaffolds issued by the Construction Industry Council ([https://www.cic.hk/files/page/50/Guidelines%20Enhancement%20Bamboo%20\(Eng\).pdf](https://www.cic.hk/files/page/50/Guidelines%20Enhancement%20Bamboo%20(Eng).pdf))

¹² Refer to Section 38A of Construction Sites (Safety) Regulations.

¹³ Refer to Section 38B of Construction Sites (Safety) Regulations.

¹⁴ Refer to Section 38E "Trained workmen to erect scaffold under supervision" of Construction Sites (Safety) Regulations, and the requirements of the Code of Practice issued by the Labour Department (refer to **Annex 6**)

- (f) remind the contractor concerned that the scaffold has to be inspected by a competent person before it is used for the first time, after substantial addition, partial dismantling or alternation, after exposure to weather conditions likely to have affected its strength or stability or to have displaced any part and within 14 days before each subsequent usage, and a report has to be made according to relevant requirements^{15,16};
 - (g) inspect the validity of the insurance policy (including employee compensation insurance) taken out by the contractor concerned for the related scaffolding work; and
 - (h) check the reports made by the competent person responsible for inspecting the scaffold before the scaffold is used for the first time and thereafter timely.
- B(2) If the contractor mentioned in paragraph B(1) of the Code is engaged by the owners' organization (if any) directly, the licensed PMC has to remind the owners' organization of the guidelines set out in paragraphs B(1)(a) to (h) of the Code so as to enable the owners' organization to remind the contractor concerned accordingly.

PMC handling scaffolding work carried out by individual flats

Code : C(1) A licensed PMC, in respect of the construction work carried out by individual flats involving scaffolds, has to deal with the application for erection of the scaffold (Application) by the flat concerned, and also has to:

- (a) establish the terms and procedures for the Application (if there is no owners' organization); or
- (b) agree with the owners' organization (if any)¹⁷ for the terms and procedures of the Application.

and Annex 7).

¹⁵ Refer to Section 38F(1) of Construction Sites (Safety) Regulations.

¹⁶ Refer to Annex 1 – Form 5 of Code of Practice for Bamboo Scaffolding Safety issued by the Labour Department (https://www.labour.gov.hk/text_alternative/pdf/eng/CSSR-F5.pdf)

¹⁷ The agreement does not affect the work of a licensed PMC as the manager to carry out its duties pursuant to the Buildings Management Ordinance (Cap. 344) or the deed of mutual covenant of the respective property. The term “manager” has the same meaning as that defined by section 34D of the BMO.

- C(2) A licensed PMC has to remind the owners or their authorised persons of individual flats in respect of contractors engaged by them to carry out construction work involving scaffolding work, and the owners or their authorised persons concerned have to ensure that the contractors:
- (a) abide by the contractual terms of the scaffolding work contract entered into;
 - (b) abide by the relevant laws/ subsidiary legislations¹⁸ and guidelines¹⁹ issued by relevant organizations;
 - (c) so far as is reasonably practicable, suitable and adequate safe access to and egress from the place of work is provided and properly maintained²⁰;
 - (d) take adequate steps to prevent any person from falling from a place of work with a height of 2 metres or more²¹;
 - (e) arrange the scaffold to be erected, substantially added, altered and dismantled by trained workers (refer to **Annex 6**) under the direction and immediate supervision of a competent person (refer to **Annex 7**)²²;
 - (f) inspect the scaffold by a competent person before it is used for the first time, after substantial addition, partial dismantling or alternation, after exposure to weather conditions likely to have affected its strength or stability or to have displaced any part and within 14 days before each subsequent usage, and a report has to be made in accordance with relevant regulations^{23,24};
 - (g) have taken out a valid insurance policy (including employee compensation insurance) for the scaffolding work concerned; and
 - (h) check the reports made by the competent person responsible for inspecting the scaffold before the scaffold is used for the first

¹⁸ Refer to footnote 10.

¹⁹ Refer to footnote 11.

²⁰ Refer to Section 38A of Construction Sites (Safety) Regulations.

²¹ Refer to Section 38B of Construction Sites (Safety) Regulations.

²² Refer to footnote 14.

²³ Refer to Section 38F(1) of Construction Sites (Safety) Regulations.

²⁴ Refer to Annex 1 – Form 5 of Code of Practice for Bamboo Scaffolding Safety issued by the Labour Department (https://www.labour.gov.hk/text_alternative/pdf/eng/CSSR-F5.pdf)

time and thereafter timely.

Monitoring scaffolding work

Code : D(1) A licensed PMC has to, so far as reasonably practicable, monitor and record scaffolding work as stated in the Code. If abnormalities (e.g. the scaffold makes abnormal noise) are found, it has to handle and follow-up with the matter properly.

D(2) If a licensed PMC discovers that the contractor concerned contravenes the law/subsidiary legislation when carrying out scaffolding work as stated in paragraphs A(2), B(1), B(2) or C(2) of the Code, the licensed PMC has to:

- instruct the contractor concerned to cease the scaffolding work immediately (if engaged by the PMC or the owners' organisation), or
- demand the owners of the flat concerned or their authorised persons to instruct the contractor concerned to cease the scaffolding work immediately (if engaged by owners or their authorised persons of individual flats),

and discuss with the owners' organization (if any) to take follow-up action (e.g. reporting to the relevant law enforcement agencies); if there is no owner's organization, the licensed PMC has to, so far as reasonably practicable, take appropriate follow-up action (e.g. reporting to the relevant law enforcement agencies).

Issuing notice

Code : E(1) A licensed PMC has to, so far as reasonably practicable, display notices in prominent place of the lobby of the property concerned to inform the owners and relevant persons (i.e. residents of various flats) about scaffolding work before such work commences.

Follow-up work after completion of scaffolding work

Code : F(1) A licensed PMC, after completion of the scaffolding work, has to:

- (a) by themselves, in respect of the scaffolding work as stated in paragraph A(1) of the Code; and
- (b) remind related workers, in respect of the scaffolding work as stated in paragraph A(2) of the Code to, dismantle the scaffold appropriately, clear up the affected area and properly restore damaged facilities and areas arising from the scaffolding work.

F(2) A licensed PMC, after completion of the scaffolding work as stated in paragraphs A(2), B(1) or B(2) of the Code, has to:

- (a) remind the contractor or owners' organisation (if applicable) concerned that the scaffold has to be dismantled by trained workers (refer to **Annex 6**) under the direction and immediate supervision of competent persons (refer to **Annex 7**)²⁵;
- (b) follow up properly that the contractor dismantles the scaffold and clears up the area concerned;
- (c) follow up properly that the contractor restores properly the damaged facilities and areas arising from the scaffolding work; and
- (d) refund the renovation deposit concerned timely.

F(3) A licensed PMC, after completion of the scaffolding work as stated in paragraph C(2) of the Code, has to:

- (a) remind the owners or their authorised persons that they have to instruct the contractor engaged by them to:
 - (i) arrange for the scaffold to be dismantled by trained workers (refer to **Annex 6**) under the direction and immediate supervision of competent persons (refer to **Annex 7**)²⁶;

²⁵ Refer to footnote 14.

²⁶ Refer to footnote 14.

- (ii) dismantle the scaffold and clear up the area; and
 - (iii) restore properly the damaged facilities and areas arising from the scaffolding work.
- (b) refund the renovation deposit concerned timely.

Keeping records

Code : G(1) Except for the scaffolding work contracts entered into by the contractors and the owners or their authorised persons concerned and the relevant documents as stated in paragraph C(2) of the Code, a licensed PMC has to keep all records, documents and information of each case of scaffolding work for not less than six years²⁷.

End

If there is any inconsistency between the Chinese version and the English version of this Code, the Chinese version shall prevail.

If there are any amendments to any ordinances or regulations mentioned in this Code, licensees have to act in accordance with the revised provisions.

²⁷ This guideline is made with reference to section 20A(4) of the BMO.

Factories and Industrial Undertakings Ordinance

Schedule 3

Specified Structures and Works

1. Any building, edifice, wall, fence, or chimney, whether constructed wholly or partly above or below ground level.
2. Any road, motorway, railway, tramway, cableway, aerial ropeway or canal.
3. Any harbour works, dock, pier, sea defence work, or lighthouse.
4. Any aqueduct, viaduct, bridge, or tunnel.
5. Any sewer, sewage disposal works, or filter bed.
6. Any airport or works connected with air navigation.
7. Any dam, reservoir, well, pipeline, culvert, shaft, or reclamation.
8. Any drainage, irrigation, or river control work.
9. Any water, electrical, gas, telephonic, telegraphic, radio, or television installation or works, or any other works designed for the manufacturing or transmission of power or the transmission or reception of radio or sound waves.
10. Any structure designed for the support of machinery, plant, or power transmission lines.

Work Safety of Truss-out Bamboo Scaffolding

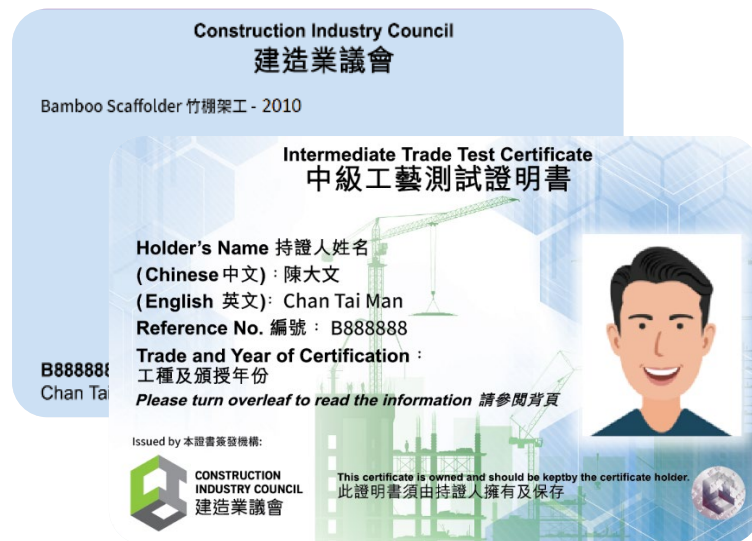
- The Code of Practice for Bamboo Scaffolding Safety revised on 19 April 2024 enhances supervision of work safety of truss-out bamboo scaffolding. From 19 October 2024 onwards, the Labour Department requires that workmen responsible for erection, substantial addition, alteration and dismantling of truss-out bamboo scaffolding shall hold specified and valid safety training certificates.

Truss-out bamboo scaffolding



Requirements for Trained Workmen

- Workmen responsible for erection, substantial addition, alteration and dismantling of bamboo scaffolding shall hold the following certificates (and possess relevant working experience, if applicable) :
 - semi-skilled bamboo scaffolder (commonly known as “Semi-skilled Workers” and possess one or more years’ scaffolding work experience (including experience attained during formal training), or
 - registered skilled bamboo scaffolder (commonly known as “Skilled Workers”), or
 - skilled (provisional) bamboo scaffolder, or
 - semi-skilled (provisional) bamboo scaffolder.



Intermediate Trade Test Certificate Sample
(Commonly known as “Semi-skilled Workers”)



Trade Test Certificate Sample
(Commonly known as “Skilled Workers”)

- In addition to the above certificates, workmen responsible for erection, substantial addition, alteration and dismantling of truss-out bamboo scaffolding shall also hold valid certificate of “Intermediate Level Truss-out Scaffolder Safety Training” or “Advanced Level Truss-out Scaffolder Safety Training” issued by the Construction Industry Council.



**Intermediate Level Truss-out Scaffolder
Safety Training Certificate Sample**



**Advanced Level Truss-out Scaffolder
Safety Training Certificate Sample**

Factories and Industrial Undertakings Ordinance

6A.

General duties of a proprietor

- (1) It shall be the duty of every proprietor of an industrial undertaking to ensure, so far as is reasonably practicable, the health and safety at work of all persons employed by him at the industrial undertaking.
- (2) Without prejudice to the generality of a proprietor's duty under subsection (1), the matters to which that duty extends include in particular—
 - (a) the provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health;
 - (b) arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;
 - (c) the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of all persons employed by him at the industrial undertaking;
 - (d) so far as is reasonably practicable as regards any part of the industrial undertaking under the proprietor's control, the maintenance of it in a condition that is safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks; and
 - (e) the provision and maintenance of a working environment for all persons employed by him at the industrial undertaking that is, so far as is reasonably practicable, safe, and without risks to health.
- (3) Subject to subsection (4), a proprietor of an industrial undertaking who contravenes this section commits an offence and is liable—
 - (a) on summary conviction—to a fine of \$3,000,000; or
 - (b) on conviction on indictment—to a fine of \$10,000,000.
- (4) A proprietor of an industrial undertaking who contravenes this section wilfully and without reasonable excuse commits an offence and is liable—
 - (a) on summary conviction—to a fine of \$3,000,000 and to imprisonment for 6 months; or
 - (b) on conviction on indictment—to a fine of \$10,000,000 and to imprisonment for 2 years.

Occupational Safety and Health Ordinance

6.

Employers to ensure safety and health of employees

- (1) Every employer must, so far as reasonably practicable, ensure the safety and health at work of all the employer's employees.
- (2) The cases in which an employer fails to comply with subsection (1) include (but are not limited to) the following—
 - (a) a failure to provide or maintain plant and systems of work that are, so far as reasonably practicable, safe and without risks to health;
 - (b) a failure to make arrangements for ensuring, so far as reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage or transport of plant or substances;
 - (c) a failure to provide such information, instruction, training and supervision as may be necessary to ensure, so far as reasonably practicable, the safety and health at work of the employer's employees;
 - (d) as regards any workplace under the employer's control—
 - (i) a failure to maintain the workplace in a condition that is, so far as reasonably practicable, safe and without risks to health; or
 - (ii) a failure to provide or maintain means of access to and egress from the workplace that are, so far as reasonably practicable, safe and without any such risks;
 - (e) a failure to provide or maintain a working environment for the employer's employees that is, so far as reasonably practicable, safe and without risks to health.
- (3) An employer who fails to comply with subsection (1) commits an offence and is liable—
 - (a) on summary conviction—to a fine of \$3,000,000; or
 - (b) on conviction on indictment—to a fine of \$10,000,000.
- (4) An employer who fails to comply with subsection (1) intentionally, knowingly or recklessly commits an offence and is liable—
 - (a) on summary conviction—to a fine of \$3,000,000 and to imprisonment for 6 months; or
 - (b) on conviction on indictment—to a fine of \$10,000,000 and to imprisonment for 2 years.

Factories and Industrial Undertakings Ordinance

6BA.

Proprietor of relevant industrial undertaking not to employ, etc. relevant person who does not have relevant certificate

(1) In this section—

equivalent document

(同等文件) means a document recognized by the Commissioner for the purposes of section 6BA(7)(a) as being equivalent to a person's relevant certificate;

relevant person

(有關人士) in relation to a relevant industrial undertaking, means a person the subject of a notice under subsection (2) in the case of that undertaking;

relevant industrial undertaking

(有關工業經營) means an industrial undertaking the subject of a notice under subsection (2);

relevant safety training course

(有關安全訓練課程) in relation to a relevant person, means the safety training course the subject of a notice under subsection (2) in the case of the class of persons to which that person belongs;

relevant certificate

(有關證明書) in relation to a relevant person employed at a relevant industrial undertaking, means the certificate issued to the person in respect of his attendance at the relevant safety training course which relates to that undertaking;

appointed day

(指定日期) means the day appointed under subsection (17);

certificate

(證明書) means a certificate referred to in subsection (2).

(2) The Commissioner may, by notice in the Gazette, or by notice in writing published in such other manner as the Commissioner thinks fit, recognize a safety training course—

(a) for a class of persons—

(i) employed at an industrial undertaking specified in column 1 of Schedule 4; and

(ii) belonging to the persons specified opposite the undertaking in column 2 of that Schedule; and

(b) in respect of which a certificate is issued to a person who attends the course.

- (3) A certificate issued to a person who attends a safety training course which is subsequently recognized under subsection (2) shall, unless otherwise provided in the notice under that subsection recognizing the course, for the purposes of this Ordinance have the same effect as a certificate issued to a person who attends the course on or after the day on which the course is so recognized.
- (4) Where the Commissioner is satisfied that a relevant person has undergone training—
- (a) equivalent to the training provided by a relevant safety training course; and
 - (b) of a standard not less than the standard of the training provided by that course,
- then—
- (i) the Commissioner may issue or cause to be issued to the person a certificate in the same terms as the certificate that would have been issued to the person if he had attended that course; and
 - (ii) the certificate so issued shall, for the purposes of this Ordinance, have the same effect as a certificate issued to a person who has attended that course.
- (5) On and after the appointed day, every proprietor of a relevant industrial undertaking—
- (a) shall not employ at the undertaking a relevant person who has not been issued a relevant certificate or whose relevant certificate has expired;
 - (b) in the case of a relevant person employed at the undertaking—
 - (i) immediately before that day who has not been issued a relevant certificate or whose relevant certificate has expired, shall cease to continue to employ the person at the undertaking on the expiration of 1 month after that day unless, before that expiration, the person has been issued a relevant certificate;
 - (ii) on or after that day whose relevant certificate expires during the course of his employment, shall cease to continue to employ the person at the undertaking on the expiration of 1 month after the expiration of the certificate unless, before the expiration of that month, the person has been issued a relevant certificate.
- (6) A certificate shall expire on—
- (a) the day specified in the certificate, being a day not less than 1 year, and not more than 3 years, after the day on which the certificate was issued;
 - (b) if no such day is specified, on the expiration of 3 years after the day on which the certificate was issued.
- (7) On and after the appointed day, it shall be the duty of every relevant person employed at a relevant industrial undertaking who has been issued a relevant certificate which has not expired to—
- (a) carry with the person the certificate or an equivalent document while at work at the undertaking;
 - (b) produce the certificate upon demand by—
 - (i) subject to paragraph (c), the proprietor of the undertaking or an agent of the proprietor authorised by the proprietor for the purpose; or
 - (ii) subject to paragraph (d), an occupational safety officer;

- (c) if unable to comply with a demand under paragraph (b)(i), make a statement—
 - (i) subject to subparagraph (ii), in a register kept by the proprietor of the undertaking under subsection (8), that he has been issued the certificate and the certificate has not expired and containing such other particulars as are required by the register; and
 - (ii) if and only if he has not made a like statement in that register on the day immediately preceding the day on which that demand is made;
 - (d) if unable to comply with a demand under paragraph (b)(ii), produce the certificate at a place and within a period—
 - (i) specified by the occupational safety officer who made the demand; and
 - (ii) which are reasonable in all the circumstances.
- (8) On and after the appointed day, every proprietor of a relevant industrial undertaking shall—
- (a) establish and maintain a register or registers for the purposes of subsection (7)(c) in such form as is specified by the Commissioner;
 - (b) not cause or permit any statement referred to in subsection (7)(c) made in any such register to be removed therefrom at any time before the expiration of 18 months from the date on which the statement was made in the register.
- (9) Where a relevant certificate which has not expired has been lost, defaced or destroyed, the relevant person to whom it was issued shall, unless he has ceased to be employed at a relevant industrial undertaking, as soon as is reasonably practicable make an application to the Commissioner to be issued a replacement relevant certificate in the same terms (and any such application may consist of, or require the accompaniment of, a statutory declaration made by the person as to the loss, defacement or destruction of the certificate).
- (10) The Commissioner shall issue or cause to be issued a replacement relevant certificate pursuant to an application under subsection (9) upon being satisfied that the relevant certificate which it will replace has in fact been lost, defaced or destroyed.
- (11) A replacement relevant certificate issued pursuant to an application under subsection (9) shall, for the purposes of this Ordinance, have the same effect as the relevant certificate which it replaces.
- (12) Subject to subsection (13), a proprietor who contravenes subsection (5) commits an offence and is liable on conviction to a fine at level 6.
- (13) It shall be a defence to a prosecution for an offence under subsection (12) for the proprietor to show that he believed, and that it was reasonable for him to believe, that the relevant person to whom the offence relates had been issued with a relevant certificate and that the certificate had not expired.
- (14) A relevant person employed at a relevant industrial undertaking who—
- (a) makes a statement referred to in subsection (7)(c); and
 - (b) is not a person who has been issued a relevant certificate which has not expired at the time of making that statement,
- commits an offence and is liable to a fine at level 3.
- (15) A relevant person who, without reasonable excuse, contravenes subsection (7)(d) commits an offence and is liable to a fine at level 3.

- (16) A proprietor who contravenes subsection (8) commits an offence and is liable on conviction to a fine at level 4.
- *(17) The Secretary for Education and Manpower may, by notice in the Gazette, appoint a day for the purposes of subsections (5), (7) and (8).
- (18) A notice under subsection (17) is subsidiary legislation.
- (19) For the avoidance of doubt, it is hereby declared that subsection (5)(b) shall not operate to entitle an employer to terminate the contract of employment of an employee otherwise than in accordance with the provisions of the Employment Ordinance (Cap. 57) in the case of an employee within the meaning of section 2(1) of that Ordinance.

Editorial Note:

* 1 May 2001 was the day appointed under this subsection—see Cap. 59 sub. leg. AH.

Trained Workman (Scaffolding)

“Trained workman”²⁸

1. A trained workman in respect of bamboo scaffolding refers to a scaffolder who is responsible for on-site erection, substantial addition, alteration and dismantling of bamboo scaffold under the immediate supervision of a competent person, and has satisfactorily completed a formal training in bamboo scaffolding works equivalent to those mentioned on Annex 7 for a competent person or has satisfactorily passed the intermediate trade test for bamboo scaffolder of the Construction Industry Council (“CIC”) and possesses at least 1 year of experience in bamboo scaffolding works (inclusive of experience under the formal training period). Scaffolders who are registered skilled, semi-skilled, skilled (provisional) or semi-skilled (provisional) workers under the Construction Workers Registration Ordinance (Cap. 583) for the trade of bamboo scaffolder are also recognised as trained workmen.
2. A trained workman in respect of truss-out bamboo scaffolding, in addition to the requirements set out in paragraph 1, refers to a person who holds a valid certificate of "Advanced Level Truss-out Scaffolder Safety Training" or "Intermediate Level Truss-out Scaffolder Safety Training" issued by the CIC.

²⁸ Refer to footnote 4.

Competent Person (Bamboo Scaffolding)

“Competent Person”²⁹

1. Pursuant to Section 2 of the Construction Sites (Safety) Regulations (Cap. 59I) (“CSSR”), a competent person, in relation to any duty to be performed by such a person under the CSSR, means a person who is:
 - (a) appointed for that purpose by the contractor required by the CSSR to ensure that the duty is carried out by a competent person; and
 - (b) by reason of substantial training and practical experience, competent to perform the duty.

2. As a general guidance:
 - (a) ‘substantial training and practical experience’ of a competent person in respect of bamboo scaffolding refers to a person
 - (i) who has satisfactorily completed a formal training in bamboo scaffolding works such as an apprenticeship in the trade of bamboo scaffolder under Section 28 of the Apprenticeship Ordinance (Cap. 47) or 1-year full-time basic craft course on construction scaffolding works of the Hong Kong Institute of Construction (including former Construction Industry Council Training Academy (CICTA)), or other similar bamboo scaffolding training courses/programmes, or has satisfactorily passed the trade test for bamboo scaffolder of the Construction Industry Council (CIC);
 - (ii) who possesses an experience of 10 years or more in bamboo scaffolding works (inclusive of experience under the formal training period); and
 - (iii) who has the ability to read and understand the scaffolding plan, design drawings, specifications and method statement of the scaffolding work in order to competently supervise the scaffolding work and certify that the scaffolding is in safe working order. He should also be capable of identifying existing and predictable hazards in the surroundings or working conditions that are unsanitary or hazardous to employees.
 - (b) A competent person should be appointed in writing and should have authorization to take prompt corrective measures to eliminate existing and predictable hazards mentioned above.

²⁹ Refer to footnote 4.