

**Explanatory Notes to Authorized Person's Certificate
submitted under Sections 8(5A) or 9(3A) of
the Hotel and Guesthouse Accommodation Ordinance (Cap. 349)**

1. These explanatory notes serve to explain the role and duties of an Authorized Person¹ (AP) in the submission of an Authorized Person's Certificate (AP's Certificate). An AP's Certificate applies to a hotel licence with validity period exceeding 36 months. It should be submitted to the Hotel and Guesthouse Accommodation Authority (the Authority) within a period of 1 month before and 1 month after each anniversary of the licence in accordance with sections 8(5A) or 9(3A) of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) (the Ordinance).

2. The licensee has to engage an AP to certify items (a), (b) & (c) below on the AP's Certificate. When signing, as at the date of certification, the AP has to certify since the day the licence was issued or since the immediate previous anniversary of the licence that :

(a) The hotel has not undergone any substantial alteration by reference to the latest plan deposited with and agreed to by the Authority.

(i) "Substantial alteration" means any building/drainage works that are *not* exempted under sections 41(3), 41(3B) and 41(3C) of the Buildings Ordinance, (Cap. 123) (copy attached). In this connection, please note that nothing in sections 41(3), 41(3B) and 41(3C) of the Buildings Ordinance (Cap. 123) shall permit any building/drainage works to be carried out in contravention of any building regulations².

(ii) "The latest plan deposited with and agreed to by the Authority" means the registered plan endorsed and accepted by the Authority upon the issuance of the licence, and any updated plan subsequently so registered.

(iii) The AP should obtain a set of latest registered plans from the licensee and subject to para. (v) below carry out inspection(s) to check and certify that the hotel conforms to the layout of the registered plans including the no. of rooms and the usage of rooms.

(iv) If, however, the AP finds that there are minor alterations which have been carried out, he should immediately inform the Authority of the findings and strongly advise the licensee to rectify or to submit alteration plan to the Authority for acceptance as soon as possible. The AP is not required to follow up with these alterations.

¹ Authorized Person means an architect/engineer/surveyor whose name is on the Authorized Persons' Register kept by the Building Authority under the Buildings Ordinance (Cap.123)

² Reference should be made to Regulation 23A(6) of the Building (Planning) Regulations regarding the use of floor space mentioned in Regulation 23A(3) of the Building (Planning) Regulations and any hotel concession granted under previous Practice Notes for Authorized Persons and Registered Structural Engineers 111.

- (v) If the licensee intends to carry out any substantial alterations, the AP should advise the licensee to submit a plan showing the proposed alterations and additions for the approval and consent by the Building Authority under section 4(3) of the Buildings Ordinance (Cap. 123) and seeking written approval from the Authority in accordance with such a condition imposed on the licence.
- (b) **The hotel has been operated, kept, managed or otherwise controlled by (name of licensee) _____ in a manner which does not contravene any of the conditions imposed under section 8(2)(a) of the Ordinance.**
- (i) The AP should obtain a copy of the licence from the licensee and check that all conditions (including special conditions, if any) imposed on the licence have been observed and not contravened by the licensee.
- (ii) In some cases, the Authority may have issued advisory letters to the licensee for some outstanding requirements. The AP is *not* expected to follow up any such matters, as the Authority will follow up directly with the licensee.
- (c) **The hotel has been maintained by (name of licensee) _____ in a proper condition with regard to building safety and fire safety (Form F.S. 251/Form WR1/Form WR2/Ventilating System Annual Maintenance Certificate/Gas System Annual Maintenance Certificate/others: is/are attached herewith).**
- (i) The AP should co-ordinate completion of all the required forms as mentioned are complete and ready for submission³. In this connection, the AP should ensure that these forms are correct before he submits them to the Authority.
- (ii) The AP should carry out inspection(s) to check and certify that:
- The fire resisting constructions (including fire resisting doors) and the compartments of the licensed areas have been maintained in a proper condition;
 - The exit routes are not obstructed or altered, and remain in effective manner; and
 - There is no apparent defect at the building structure, windows and external finishes that would likely cause any personal injuries.

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³ These forms can be arranged either by the licensee or the AP depending on the agreement between the licensee and the AP. In both cases, the AP needs not carry out tests by himself as such tests should have been done by the relevant registered specialist contractors.

Chapter:	123	Title:	BUILDINGS ORDINANCE	Gazette Number:	L.N. 118 of 2010
Section:	41	Heading:	Exemptions	Version Date:	31/12/2010

(1) The following shall be exempt from the provisions of this Ordinance-

- (a) buildings belonging to the Government;
- (aa) subject to section 18(2) and (3) of the Housing Ordinance (Cap 283), buildings upon any land vested in the Housing Authority or over which the Housing Authority has control and management; (Added 23 of 1973 s. 36. Amended 33 of 1978 s. 13)
- (b) buildings upon any land vested in any person on behalf of Her Majesty's naval, military or air force services;
- (ba) any land vested in the Housing Authority or in any person on behalf of Her Majesty's naval, military or air force services, and any unleased land within the meaning of the Land (Miscellaneous Provisions) Ordinance (Cap 28) other than such unleased land in respect of which a person is, under the terms of a Government lease, under an obligation to maintain; (Added 72 of 1980 s. 16)
- (c) any street or access road vested in and maintained by the Government: (Added 44 of 1959 s. 21)

Provided that the provisions of this Ordinance relating to projections over or upon any portion of any street whether or not on land held under lease from the Government and to hoardings shall apply to all buildings. (Amended 23 of 1969 s. 10; 29 of 1998 s. 26)

(1A) Nothing in subsection (1) shall exempt an owner of any building that is not a building referred to in paragraph (a), (aa) or (b) of that subsection from the operation of section 27C merely by reason of the fact that any water pipe, drain or sewer of the building is laid in, on or under-

- (a) any land vested in the Housing Authority or in any person on behalf of Her Majesty's naval, military or air force services;
- (b) any unleased land within the meaning of the Land (Miscellaneous Provisions) Ordinance (Cap 28); or (Amended 29 of 1998 s. 26)
- (c) any street or access road vested in and maintained by the Government. (Added 55 of 1996 s. 10. Amended 29 of 1998 s. 26)

(2) Save as otherwise provided, no alteration shall be required to any existing building, private street or access road erected or constructed in accordance with the laws of Hong Kong.

(Replaced 44 of 1959 s. 21. Amended 43 of 1993 s. 11; 62 of 2000 s. 3)

(3) Building works (other than drainage works, ground investigation in the scheduled areas, site formation works or minor works) in any building are exempt from sections 4, 9, 9AA, 14(1) and 21 if the works do not involve the structure of the building. (Replaced 20 of 2008 s. 29)

(3A) (Repealed 20 of 2010 s. 29)

(3B) Designated exempted works that are prescribed in the regulations are exempt from sections 4, 9, 9AA, 14(1) and 21. (Added 20 of 2008 s. 29)

(3C) Drainage works (other than minor works) in any building are exempt from sections 4, 9 and 14(1) if the works do not involve—

- (a) the structure of the building;
- (b) any drain or sewer into which there is discharged, or into which it is intended to discharge, any trade effluent, chemical refuse, waste steam, petroleum spirit, carbide of calcium, acid, grease or oil;
- (c) altering any manhole at which any drain or sewer from the building is connected with a public sewer;
- (d) altering any septic tank or cesspool;
- (e) making a direct or indirect connection of an additional drain or sewer to a septic tank or cesspool; or
- (f) underground drainage works in a scheduled area that is described as area number 3 in the Fifth Schedule. (Added 20 of 2008 s. 29)

(3D) Nothing in subsections (3), (3B) and (3C) permits any building works or drainage works to be carried out in contravention of any regulations. (Added 20 of 2008 s. 29)

(4) The provisions of this Ordinance shall not apply to any temporary building to be kept or used as a place of public entertainment. (Added 7 of 1970 s. 7)