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Notification No. B 21 — The Building Control (Amendment) Bill is hereby published for general information. It was introduced in Parliament on the 30th day of June 2000.

Building Control (Amendment) Bill

Bill No. 21/2000.

Read the first time on 30th June 2000.

A BILL

intituled

An Act to amend the Building Control Act (Chapter 29 of the 1999 Revised Edition).

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

Short title and commencement

1.—(1) This Act may be cited as the Building Control
5 (Amendment) Act 2000 and shall come into operation on such date
as the Minister may, by notification in the *Gazette*, appoint.

(2) The Minister may appoint different dates for the coming into operation of the different provisions of this Act.

Amendment of section 2

2. Section 2 (1) of the Building Control Act (referred to in this Act as the principal Act) is amended by inserting, immediately after the definition of “accredited checker”, the following definition: 5

““accredited checking organisation” means an accredited checking organisation registered as such under section 16A;”.

Amendment of section 8

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3. Section 8 (1) of the principal Act is amended —

(a) by inserting, immediately after the word “supervisor” in paragraph (b), the words “appointed by the appropriate qualified person and working under his control and direction”; and 15

(b) by deleting the words “a site supervisor or qualified person” in paragraph (c) and substituting the words “an appropriate qualified person or a site supervisor appointed by the appropriate qualified person and working under his control and direction”. 20

Amendment of section 9

4. Section 9 of the principal Act is amended —

(a) by inserting, immediately after paragraph (a) of subsection (3), the following paragraph:

“(aa) take all reasonable steps and exercise due diligence in ensuring that the structure of the building is designed in accordance with the provisions of this Act and, subject to section 14, the requirements for structural design and loads prescribed in the building regulations;” and 25 30

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

“(5A) Any qualified person who contravenes or fails to comply with subsection (3) (aa) 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 12 months or to both.”.

Amendment of section 10

5 **5.** Section 10 of the principal Act is amended —

- (a) by inserting, immediately before the words “qualified person” in the 3rd line of subsection (1), the word “appropriate”; and
- 10 (b) by deleting the words “a site supervisor or qualified person, the qualified person” in the 3rd and 4th lines of subsection (2) and substituting the words “an appropriate qualified person or a site supervisor, the appropriate qualified person”.

Repeal and re-enactment of section 15

15 **6.** Section 15 of the principal Act is repealed and the following section substituted therefor:

“Registers

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

- 20 (a) a register of accredited checkers registered under section 16; and
- (b) a register of accredited checking organisations registered under section 16A,

25 in which shall be entered the names and prescribed particulars of the persons and organisations 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 —

- 30 (a) in the case of the register of accredited checkers, that the person is not so registered or that his registration has been suspended or cancelled; and
- (b) 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.”.

Amendment of section 16

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7. Section 16 of the principal Act is amended —

- (a) by deleting the words “may be prescribed” in subsection (1) and substituting the words “the Commissioner of Building Control may determine”;
- (b) by inserting, immediately after the word “experience” in subsection (2), the following words “and meets such other requirements as may be prescribed”;

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

“(5A) The registration of an accredited checker under this section shall be valid for the prescribed period and may, subject to this Act and the building regulations, be renewed on its expiry. 15

(5B) An accredited checker may only undertake work as an accredited checker on his own behalf if the value of the building works is within the prescribed limit. 20

(5C) No person shall undertake any work required under this Act or the building regulations to be undertaken by an accredited checker unless —

- (a) he is registered under this section; and 25
- (b) his registration has not been suspended or cancelled.”;

- (d) by deleting the words “The Commissioner of Building Control may” in the 1st line of subsection (6) and substituting the words “Subject to section 16B, the Commissioner of Building Control may suspend or”; 30

- (e) by deleting the word “or” at the end of subsection (6) (d);

- (f) by deleting the full-stop at the end of paragraph (e) of subsection (6) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs: 35

“(f) who has been censured, fined, suspended or de-registered by the Professional Engineers Board;

(g) who fails to meet the prescribed requirements for registration; or

(h) if his performance as an accredited checker fails to meet such standards of performance as may be prescribed in the building regulations.”; and

(g) by deleting subsections (7) to (11) and substituting the following subsections:

“(7) Any person who contravenes subsection (5B) or (5C) shall be guilty of an offence.

(8) For the purposes of this section, sections 16A and 17 —

“prescribed limit” means —

(a) \$10 million, where no other sum is specified under paragraph (b); or

(b) where a sum is specified under this paragraph by the Minister for the purposes of this section and section 17 by notification in the *Gazette*, such sum as may for the time being be so specified;

“prescribed period” means —

(a) 12 months from the date of registration of the accredited checker or the accredited checking organisation, as the case may be; or

(b) where a period is specified under this paragraph by the Minister for the purposes of this section and section 16A by notification in the *Gazette*, such period as may for the time being so specified;

“value of the building works” means the total cost to be expended in carrying out the building works (including the foundations, structural frame, finishes and the installation of building services) estimated at the time of, and contained in, the application for approval of the plans of the building works.”.

New sections 16A, 16B and 16C

8. The principal Act is amended by inserting, immediately after section 16, the following sections:

“Accredited checking organisations

16A.—(1) Subject to the provisions of this Act, the Commissioner of Building Control may register — 5

(a) any 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; 10
or

(b) any corporation licensed under the Professional Engineers Act to supply professional engineering services in Singapore,

as an accredited checking organisation. 15

(2) An application for registration as 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.

(3) No partnership or corporation shall be registered as an accredited checking organisation unless it can satisfy the Commissioner of Building Control that it meets such requirements as may be prescribed. 20

(4) The Commissioner of Building Control may appoint a committee of persons to assist him in considering applications for registration as accredited checking organisations. 25

(5) Where the Commissioner of Building Control has registered a partnership or corporation as an accredited checking organisation, the Commissioner of Building Control shall issue to the partnership or corporation, as the case may be, a certificate of accreditation. 30

(6) The registration of an accredited checking organisation under this section shall be valid for the prescribed period and may, subject to this Act and the building regulations, be renewed on its expiry. 35

(7) No person shall undertake any work required under this Act or the building regulations to be undertaken by an accredited checking organisation unless —

(a) it is registered under this section; and

5 (b) its registration has not been suspended or cancelled.

(8) The Commissioner of Building Control may suspend or cancel the registration of an accredited checking organisation —

(a) which has contravened or failed to comply with section 18A (1);

10 (b) which has been convicted of an offence under this Act or the building regulations;

(c) if any accredited checker who is —

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

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

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

20 (d) which, in the opinion of the Commissioner of Building Control, is no longer in a position to carry out the duties of an accredited checking organisation under this Act;

(e) whose name has been included in the register by fraud or misrepresentation;

25 (f) which fails to meet the prescribed requirements for registration; or

(g) if its performance as an accredited checking organisation, or the performance of any accredited checker acting on behalf of the accredited checking organisation, fails to meet such standards of performance as may be prescribed in the building regulations.

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

Procedure for suspension or cancellation of registration

16B.—(1) The Commissioner of Building Control shall not exercise his powers under section 16 (6) (b), (c), (d), (e), (f), (g) or (h) or section 16A (8) unless an opportunity of being heard has been given to the accredited checker or the accredited checking organisation, as the case may be, against whom the Commissioner of Building Control intends to exercise his powers. 5

(2) For the purpose of subsection (1), the Commissioner of Building Control may appoint a committee of persons to assist him in considering any representation that may be made under subsection (1). 10

(3) Subject to subsection (4), where the Commissioner of Building Control suspends or cancels the registration of an accredited checker under section 16 (6) or an accredited checking organisation under section 16A (8), he shall — 15

(a) in the case of an accredited checker, remove the name and particulars of the person from the register of accredited checkers under section 15 (1) (a) and cancel the certificate of accreditation issued under section 16 (5); or 20

(b) in the case of an accredited checking organisation, remove the name and particulars of the organisation from the register of accredited checking organisations under section 15 (1) (b) and cancel the certificate of accreditation issued under section 16A (5). 25

(4) Where the registration of an accredited checker or an accredited checking organisation is suspended, his or its name and particulars shall be reinstated on the respective register under section 15, and his or its certificate of accreditation shall be restored, at the end of the period of suspension. 30

(5) The person whose registration as an accredited checker or an accredited checking organisation is suspended or cancelled under section 16 (6) or 16A (8) 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 (5) or 16A (5), as the case may be, failing which the person shall be guilty of an offence. 35

Appeals

16C.—(1) Any person whose application for registration under section 16 or 16A is refused, or who is dissatisfied with the decision of the Commissioner of Building Control under section 16 (6) or 16A (8), may, within 14 days of being notified in writing of the refusal or the decision, appeal to the Minister whose decision shall be final.

(2) Any person whose registration has been suspended or cancelled under section 16 (6) or 16A (8) shall, if the appeal to the Minister is allowed, be forthwith reinstated.”.

Repeal and re-enactment of section 17

9. Section 17 of the principal Act is repealed and the following section substituted therefor:

“Appointment of accredited checkers or accredited checking organisations

17.—(1) Every person for whom building works are or are to be commenced or carried out shall, unless otherwise prescribed, appoint an accredited checker or an accredited checking organisation in respect of the detailed structural plans and design calculations of the building works.

(2) A person for whom building works are or are to be commenced or carried out shall appoint an accredited checking organisation for the purposes of subsection (1) if the value of the building works exceeds the prescribed limit referred to in section 16 (5B).

(3) The accredited checker —

(a) appointed under subsection (1); or

(b) acting on behalf of the accredited checking organisation appointed under subsection (1),

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.

(4) Any person who contravenes subsection (2) shall be guilty of an offence.

(5) Any accredited checker —

- (a) appointed under subsection (1); or
- (b) acting on behalf of an accredited checking organisation appointed under subsection (1),

who contravenes or fails to comply with subsection (3) shall be 5
guilty of an offence and shall be liable on conviction to a fine not
exceeding \$50,000 or to imprisonment for a term not exceeding
12 months or to both.”.

Amendment of section 18

10. Section 18 of the principal Act is amended by deleting 10
subsection (6).

New sections 18A and 18B

11. The principal Act is amended by inserting, immediately after
section 18, the following sections:

“Independence of accredited checking organisations

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18A.—(1) In addition to the requirements imposed on an
accredited checker under section 18, where the certificate under
section 6 (1) (c) or (8) is made by an accredited checker acting on
behalf of an accredited checking organisation —

- (a) the accredited checking organisation that is a 20
corporation and any of its directors; and
- (b) any partner of the accredited checking organisation that
is a partnership,

shall not at the time of the making of the certificate have any
professional or financial interest in the building works shown 25
in the plans described in the certificate under section 6 (1) (c)
or (8).

(2) A person shall be regarded as having a professional or
financial interest in any building works if —

- (a) the person is or has been responsible for the design or 30
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;

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

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

(3) 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 the person has that interest only as trustee for the benefit of some other person; and

(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.

(4) For the purposes of this Act —

(a) involvement in the building works as an accredited checker or an accredited checking organisation; and

(b) entitlement to any fee paid for the function as an accredited checker or an accredited checking organisation,

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

(5) Any accredited checking organisation that is a corporation which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

(6) Any partner of an accredited checking organisation that is a partnership, or any director of an accredited checking organisation that is a corporation, who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both.

Exemption for certain public authorities

18B. The Minister may, by notification in the *Gazette*, exempt from sections 16 (5B), 16A (7), 17 (2) and 18 (1) any building works —

- (a) which are carried out for any public authority constituted by any written law; and
- (b) in respect of which an accredited checker who is an officer or employee of the public authority has been appointed for the purposes of section 17 (1).’.

Transitional

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12. The registration of any person as an accredited checker, and any certificate of accreditation issued, under section 16 of the principal Act before the date of commencement of section 7 of this Act shall lapse on that date.

EXPLANATORY STATEMENT

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

- (a) to provide for the appointment, registration and qualifications for registration of accredited checking organisations to check the detailed structural plans and design calculations of building works where the building works are valued above a prescribed limit, and to provide for the circumstances and procedures for suspension or cancellation of registration;
- (b) to amend the system of registration of accredited checkers to provide additional requirements for registration, to require that the registration be renewed annually, to empower the Commissioner of Building Control to suspend registration (in addition to cancelling registration) in certain circumstances and to specify additional grounds for cancellation of registration;
- (c) to impose a duty on the qualified person appointed by a person for whom building works are or are to be carried out to take all reasonable steps and exercise due diligence in ensuring that the structure of the building is designed in accordance with the provisions of the Act and (with certain exceptions) the requirements for structural design and loads prescribed in the building regulations and to make it an offence for the qualified person to fail to do so;

- (d) to clarify the position of site supervisors (who are appointed by the qualified persons) in relation to qualified persons (who are appointed by the person for whom building works are or are to be carried out); and
- (e) to make consequential and other minor amendments for the better administration of the Act.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 (1) to insert a new definition of “accredited checking organisation”.

Clause 3 amends section 8 (1) to make clear that specified building works must be supervised by the appropriate qualified person or a site supervisor appointed by the appropriate qualified person and working under his control and supervision.

Clause 4 amends section 9 to make it the duty of the qualified person to take all reasonable steps and exercise due diligence in ensuring that the structure of the building is designed in accordance with the Act and (with certain exceptions) the requirements for structural design and loads prescribed in the building regulations. Breach of the duty is an offence punishable with a fine not exceeding \$100,000 or with imprisonment for a term not exceeding 12 months or with both.

Clause 5 makes minor amendments to section 10 as a consequence of the amendments to section 8 (to be made by clause 3).

Clause 6 repeals and re-enacts section 15 to provide for the keeping, maintenance and inspection of a register of accredited checkers and a register of accredited checking organisations and to provide that absence of a name from the respective registers is to be prima facie evidence that the person is not registered or that the person’s registration has been suspended or cancelled.

Clause 7 amends section 16 —

- (a) to provide that the manner of application for registration as an accredited checker and the documents and particulars to be provided are to be determined by the Commissioner of Building Control instead of being prescribed;
- (b) to provide that a person who wishes to be registered as an accredited checker must meet such other requirements as may be prescribed (in addition to the prescribed qualifications and practical experience);
- (c) to provide that the registration of an accredited checker shall be valid for a prescribed period and may be renewed;
- (d) to make it an offence for an accredited checker to undertake building works as an accredited checker on his own behalf if the value of the building works exceeds the prescribed limit and to define the terms “prescribed limit”, “prescribed period” and “value of the building works”;

- (e) to make it an offence for any person to undertake any work required to be undertaken by an accredited checker unless he is registered under the section and his registration has not been suspended or cancelled;
- (f) to empower the Commissioner of Building Control to cancel or suspend the registration of an accredited checker in specified circumstances;
- (g) to set out additional grounds on which the Commissioner of Building Control may cancel or suspend the registration of an accredited checker; and
- (h) to delete existing subsections (7) to (11) as they are covered under new sections 16B and 16C.

Clause 8 inserts 3 new sections, namely sections 16A, 16B and 16C.

The new section 16A provides for the registration, the procedures for registration and the requirements for registration of accredited checking organisations. Such an organisation must be a corporation licensed under the Professional Engineers Act (Cap. 253) to supply professional engineering services in Singapore or a partnership consisting wholly of professional engineers registered under the Professional Engineers Act or which is licensed under the Professional Engineers Act to supply professional engineering services in Singapore. The Commissioner of Building Control is empowered to appoint a committee of persons to assist him in considering applications for registration as accredited checking organisations. A certificate of accreditation is to be issued by the Commissioner of Building Control to any person who is registered as an accredited checking organisation. The registration is valid for a prescribed period as defined in new section 16 (8) and may be renewed. It is an offence for any person to undertake work required to be undertaken by an accredited checking organisation unless the person is registered under the section and his registration has not been suspended or cancelled. The Commissioner of Building Control may suspend or cancel the registration of an accredited checking organisation in specified circumstances.

The new section 16B sets out the procedure for suspension or cancellation of registration of an accredited checker or an accredited checking organisation. The Commissioner of Building Control must give the accredited checker (except where the accredited checker is deceased) or the accredited checking organisation, as the case may be, an opportunity to be heard. The Commissioner of Building Control is empowered to appoint a committee of persons to assist him in considering any representation that may be made. Where the Commissioner of Building Control suspends or cancels the registration of an accredited checker or an accredited checking organisation, the relevant name and particulars shall be removed from the relevant register and the relevant certificate of accreditation shall be cancelled. The name and particulars of a person who has been suspended will however be reinstated, and the person's certificate of accreditation restored, at the end of the period of suspension. It is an offence for a person whose registration as an accredited checker or as an accredited checking organisation has been suspended or cancelled to fail to surrender his or its certificate of accreditation to the Commissioner of Building Control within 14 days of notification.

The new section 16C provides that a person whose application for registration as an accredited checker or an accredited checking organisation is refused by the Commissioner of Building Control, or who is dissatisfied with a decision of the Commissioner of Building Control to suspend or cancel his or its registration, is entitled to appeal against the decision to the Minister whose decision is final.

Clause 9 repeals and re-enacts section 17 to provide that every person for whom building works are or are to be commenced or carried out shall (unless otherwise prescribed) appoint an accredited checker or an accredited checking organisation in respect of the detailed structural plans and design calculations of the building works. It is an offence for a person to appoint an accredited checker in respect of the detailed structural plans and design calculations of building works if the value of the building works exceeds the prescribed limit under new section 16 (5B). It is the duty of the accredited checker appointed under section 17, or an accredited checker acting on behalf of an accredited checking organisation appointed under that section, to check the detailed structural plans and design calculations of the building works in accordance with the building regulations and to carry out such other duties as may be prescribed in the building regulations and it is an offence if he fails to do so.

Clause 10 amends section 18 by deleting subsection (6) which is covered under the new section 18B.

Clause 11 inserts 2 new sections, namely sections 18A and 18B.

The new section 18A deals with independence of accredited checking organisations. The new section provides that in addition to the requirements imposed on the accredited checker under section 18, where the certificate under section 6 (1) (c) or (8) is made by an accredited checker acting on behalf of an accredited checking organisation, it is an offence —

- (a) for the accredited checking organisation that is a corporation or any of its directors; or
- (b) for any of the partners of an accredited checking organisation that is a partnership,

to have a professional or financial interest in the building works shown in the plans described in the certificate under section 6 (1) (c) or (8) at the time of the making of the certificate. The new section specifies certain circumstances in which a person will be regarded as having a professional or financial interest in any building works, and other circumstances in which a person will not be regarded as having such a professional or financial interest.

The new section 18B provides that the Minister may, by notification in the *Gazette*, exempt from sections 16 (5B), 16A (7), 17 (2) and 18 (1) any building works which are carried out for any public authority constituted by any written law and in respect of which an accredited checker who is an officer or employee of the public authority has been appointed for the purposes of section 17 (1).

Clause 12 is a transitional provision. It provides that the existing registration of any person as an accredited checker and any certificate of accreditation issued

under the principal Act before the date of commencement of clause 7 of this Bill shall lapse on the date of commencement of that clause. The effect is that any person who had been registered as an accredited checker before the date of commencement of clause 7 must re-register under the principal Act if he wishes to be registered as an accredited checker on or after the date of commencement of that clause.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
