

CLIENT PRACTICE NOTE

LICENSING OF BUILDERS

A Client Practice Note

by Eugenie Lip, Contracts Director and Head of KPK Contracts Support Group

INTRODUCTION

“To raise the level of professionalism and standard of contractors, the JRC (Joint Review Committee) recommends that contractors who undertake works that need building control approval should be required to have a builder or contractor license.”

“Specialist contractors engaged in works that have a significant impact on safety should also be licensed.”

Report of the Joint MND-MOM Review Committee on Construction Safety:
Paragraphs 41 and 42

Against a backdrop of these recommendations from the Joint Review Committee on Construction Safety which was convened following the Nicoll Highway and Fusionpolis Complex incidents, the Building and Construction Authority (BCA) announced a slew of conditions on the licensing of general builders and specialist builders.

This practice note examines the key requirements on the licensing of builders as promulgated in the Building Control Act (Cap. 29) (the Building Control Act) and the subsidiary legislation, the Building Control (Licensing of Builders) Regulations 2008 and the Building and Construction Authority (Registration of Construction Personnel) Regulations 2008.

OVERVIEW OF LICENSING REQUIREMENTS

Part VA of the Building Control Act on Licensing of Builders and the Building Control (Licensing of Builders) Regulations 2008 stipulate the requirements for licensing of builders carrying out building works that require building plan approval from the Commissioner of Building Control.

The licensing requirements do not therefore apply to builders carrying out construction works such as repainting, renovation works, interior fitting-out and decoration works or the supply of construction materials and goods.

A 6-month period, that is, until 15 June 2009, has been given for builders to apply for the licences which are valid for a period of 3 years. If a builder does not hold a valid General Builder Licence or a Specialist Builder Licence, he is unauthorised to carry out any building works which require building plan approval. A builder will be committing a criminal offence and liable on conviction to an imposition of a fine or to imprisonment or to both if he carries out such works without a valid licence.

Broadly, there are in essence 2 types of licences – a General Builder Licence (which is divided into Class 1 and Class 2 licences) and a Specialist Builder Licence for each of the 6 classes of specialist building works.

General Builder Licence – Class 1 and Class 2

A builder holding a General Builder Licence is authorised to carry out general building works which require building plan approval by the Commissioner of Building Control and minor specialist building works. The Building Control Act defines 'minor specialist building works' as:

- Specialist works relating to building works which do not require certification by an Accredited Checker;
- Fabrication and erection of steel structures with a cantilever length of not more than 3 metres, a clear span of less than 6 metres and a plan area not exceeding 150 square metres; and
- Precast concrete work comprising on-site casting of precast reinforced concrete slabs and planks.

Builders with a Class 1 General Builder Licence are eligible to carry out building works of any value. For builders holding a Class 2 General Builder Licence, they are restricted to carry out projects, each of an estimated final price of not more than \$6 million. The Building Control Act stipulates \$3 million but this value was varied by the Building Control (Estimated Final Price for Class 2 General Builder's Licence) Order 2008 to \$6 million. The estimated final price is defined in the Building Control Act as 'the total fee chargeable at practical completion' including any goods and services tax payable.

Sole proprietorships and partnerships (which include limited liability partnerships) are not eligible to apply for a Class 1 General Builder Licence.

Specialist Builder Licence (6 Classes)

A Specialist Builder Licence is now required for any of the 6 classes of specialist building works, namely, piling works, ground support and stabilisation works, site investigation work, structural steelwork, precast concrete work and in-situ post tensioning work.

A licensed General Builder can also register as a Specialist Builder for any of the specialist building works provided he satisfies the licensing requirements for the applicable class.

APPROVED PERSON AND TECHNICAL CONTROLLER

It is a condition for the purposes of application of a General Builder Licence and/or a Specialist Builder Licence that the builder appoints an Approved Person (AP) for each licence to be responsible for the management of the business of the builder's firm.

The builder is also required to appoint at least one Technical Controller (TC) in respect of each licence to be responsible for the supervision, execution and performance of the building works or specialist building works. He is disallowed from acting as a Technical Controller of other builders for so long as he is a Technical Controller of one builder.

The Approved Person can also be appointed as a Technical Controller but only for the same builder. He should not at any time be acting as a Technical Controller for other builders.

The Building Control (Licensing of Builders) Regulations set out in detail the minimum requirements on the qualifications, training and practical experience for the Approved Person and Technical Controller in respect of each class of licence.

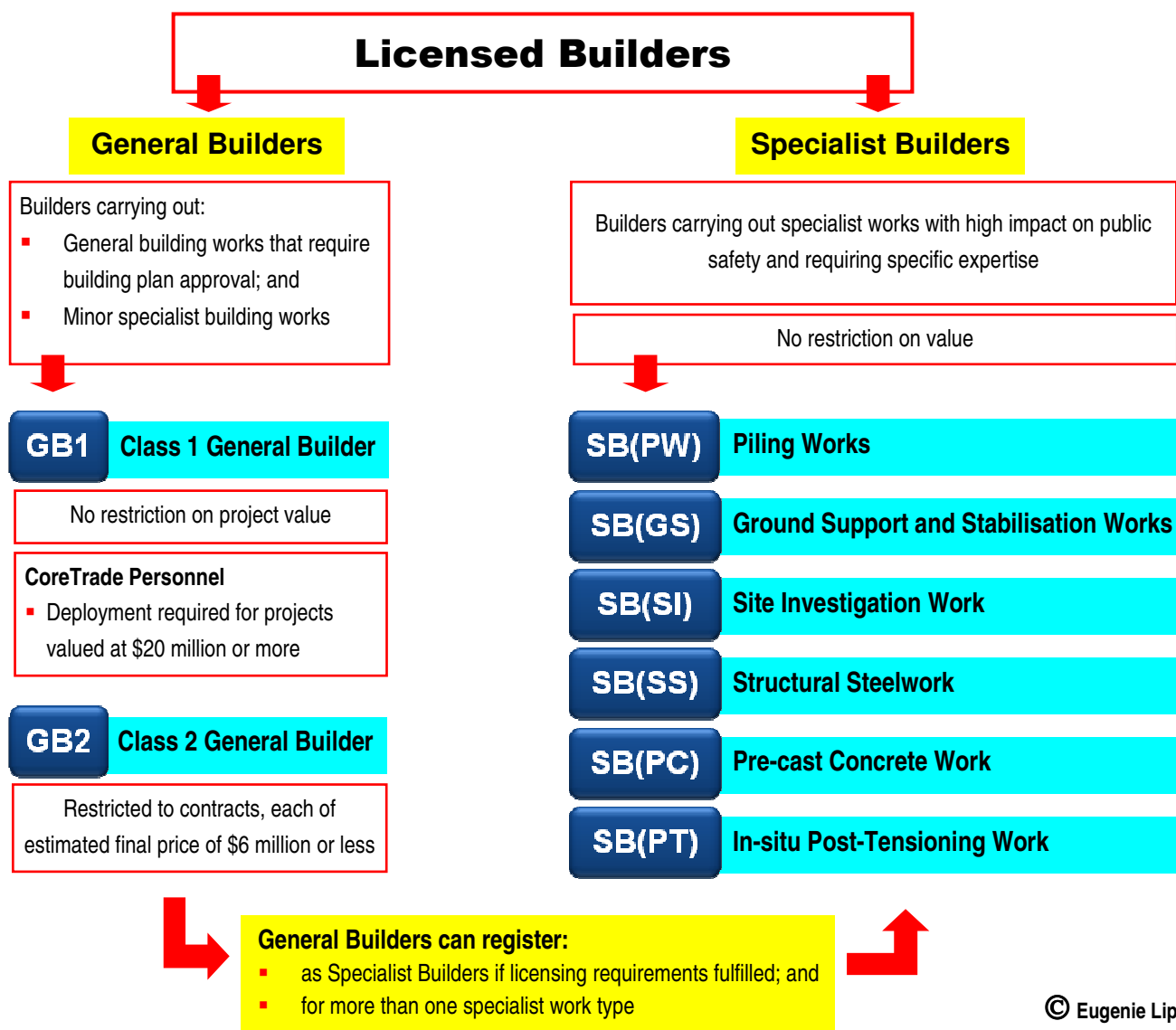
REVOCATION OR SUSPENSION OF LICENCE

The Commissioner of Building Control can order the revocation or suspension of any General Builder Licence and/or Specialist Builder Licence, or impose directions and/or restrictions on the builder's business as a General Builder or Specialist Builder under a list of grounds set out in section 29J of the Building Control Act.

A builder whose licence has been revoked or suspended has to cease carrying out business as a General Builder or a Specialist Builder.

LICENSING REGIME ILLUSTRATED

The licensing regime is illustrated below:



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CONTRACTORS REGISTRY VIS-A-VIS BUILDER LICENCES

Builders currently registered under the Contractors Registry administered by the BCA for the various groups of registration heads are required to be licensed as General Builders and/or Specialist Builders. It must be noted that the Contractors Registry and the Licensing of Builders are two separate and distinct schemes. The BCA has

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provided a list of Contractors Registry Workheads and their corresponding classes of Builders' Licences and this is set out below:

Type of Contractors Registry Workhead	Corresponding Class of Builder Licence
CW01 and CW02, A1 to C1	General Builder Class 1
CW01 and CW02, C2 and C3	General Builder Class 2
CR08 (Piling) – all grades	Specialist Builder (Piling Works)
CR10 (Precast Concrete Products) – all grades	Specialist Builder (Pre-cast Concrete Work)
CR12 (Soil Investigation and Stabilisation) – all grades	<ul style="list-style-type: none">Specialist Builder (Ground Support and Stabilisation Works);Specialist Builder (Site Investigation Work); and/orSpecialist Builder (Piling Works)

CONSTRUCTION REGISTRATION OF TRADESMEN (CoreTrade) SCHEME

With effect from 16 June 2009, a builder holding a Class 1 General Builder Licence and undertaking a significant general building work project, that is, a project of an estimated value of \$20 million or more, is required as a condition of the licence to:

- Deploy a prescribed minimum number of construction supervisors, foremen and tradesmen who are registered under the Construction Registration of Tradesmen (CoreTrade) scheme administered by the BCA; and
- Submit a manpower programme showing the number of registered CoreTrade personnel deployed, the trades such personnel are deployed and the schedule of their deployment during the contract period to the Commissioner of Building Control within 30 days from the grant of a permit to carry out structural works.

The builder must maintain and update the manpower programme at regular intervals to reflect the deployment status on site and notify the Commissioner of Building Control within 7 days after any change has been made.

CONCLUSION

The efforts and initiatives of the BCA to improve professionalism and imbue safety and quality consciousness in the construction industry are laudable and must be commended.

By raising professionalism from executive management to technical personnel to a higher platform, the construction industry can certainly portray itself more favourably and shed the general perception of it having a low status image with poor career prospects. The licensing scheme is timely and can be a catalyst in transforming the industry from being labelled 3Ds (**D**irty, **D**angerous and **D**emanding) to become 3Ps (**P**rofessional, **P**roductive and **P**rogressive).

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