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7 June 2013

To: Recipients of BEEO Technical Circulars

Dear Sirs/ Madams,

The Buildings Energy Efficiency Ordinance (Cap 610)
Technical Circular No. 2/2013
Outstanding Building Services Installations after Issuance of
Occupation Approval for a New Building Project

Purpose

This Technical Circular sets out the principles to clarify whether the outstanding building services installations completed by a developer for a new building project after issuance of occupation approval¹ should be regarded as "major retrofitting works" under the Buildings Energy Efficiency Ordinance (BEEO).

Effective Date

2. This Circular takes immediate effect.

Effect on Existing Circular

3. There is no effect on existing circulars.

Background

4. Pursuant to section 9 of the BEEO, the developer of a prescribed building is required to submit "stage two declaration" to the Director of Electrical and Mechanical Services (DEMS) within 4 months after issuance of occupation approval to

¹ Pursuant to the interpretation of the BEEO, "occupation approval" means (a) an occupation permit or a temporary occupation permit issued under the Buildings Ordinance (Cap 123); or (b) an approval or a consent issued by a relevant authority to occupy a building for which no occupation permit is required under the Buildings Ordinance.

declare that all building services installations provided by the developer in the building at or before the time of declaration have been designed, installed and completed in accordance with the standards and requirements specified in the Building Energy Code (BEC). The objective of the aforesaid period of 4 months is to cover the outstanding building services installations unable to be completed in time before issuance of occupation approval.

5. On the other hand, pursuant to Schedule 3 of the BEEO, addition of a building services installation may be regarded as "major retrofitting works" if it meets the conditions specified in Schedule 3 of the BEEO and Section 10 of the BEC.

6. In this connection, some principles are set out to clarify whether the outstanding building services installations completed by a developer for a new building project after issuance of occupation approval should be regarded as major retrofitting works under the BEEO.

Principles

7. A period of 4 months or a period extended under section 9(5)² of the BEEO after the issuance of occupation approval is taken as the dividing line, whichever is the later.

8. The outstanding building services installations completed by a developer for a new building project within 4 months or the extended period (inclusive of the last day) after issuance of occupation approval will all be regarded as part of the original works of the new building project but not retrofitting works.

9. On the contrary, the outstanding building services installations completed by a developer for a new building project beyond 4 months or the extended period after issuance of occupation approval will all be regarded as retrofitting works. If these outstanding building services installations meet the conditions of major retrofitting works specified in the BEEO and BEC, the developer should follow the relevant requirements of the BEEO to obtain a Form of Compliance (FOC) from a Registered Energy Assessor (REA) for these outstanding building services installations and the REA should copy the FOC to DEMS for record.

10. However, the addition of building services installations carried out by other persons, such as subsequent owners, tenants etc., but not the developer after issuance of occupation approval will anyhow be regarded as retrofitting works no

² Section 9(5) of the BEEO empowers DEMS, on an application in writing by the developer concerned, extend the period of 4 months after issuance of occupation approval for the submission of stage two declaration.

matter whether they are completed within 4 months or the extended period after issuance of occupation approval. If these building services installations meet the conditions of major retrofitting works specified in the BEEO and BEC, the persons concerned should follow the relevant requirements of the BEEO to obtain a FOC from an REA for these building services installations and the REA should copy the FOC to DEMS for record.

11. The above principles also apply to a "transitional" new building project which the first consent to the commencement of building works for superstructure construction (and subsequent consent for "major revision" as well, if any)³ is/are issued on or before 21 September 2012 (the date of full operation of the BEEO) but the occupation approval is issued after 21 September 2012. In other words, the outstanding building services installations completed by a developer for such a building project within 4 months (inclusive of the last day) after issuance of occupation approval will all be regarded as part of the original works of the building project but not retrofitting works. Thus, these outstanding building services installations will be regarded as the existing installations of an existing building and not covered by the BEEO.

12. For such a "transitional" new building project where some outstanding building services installations are completed by the developer later than 4 months after issuance of occupation approval and the scope of such outstanding building services installations belongs to "major retrofitting works", if the developer concerned has difficulties to comply with certain requirements of the BEC, the developer may apply, with justification, to DEMS for exemption from those particular requirements pursuant to section 20 of the BEEO. A standard application form for exemption (Form EE-EX) may be downloaded at the website of the BEEO (<http://www.beeo.emsd.gov.hk>).

13. At the submission of stage two declaration, the developer concerned is not required to additionally submit any document to substantiate that the outstanding building services installations are completed by the developer within 4 months (or the extended period) after issuance of occupation approval. However, in case of reasonable doubt or sampling check, the Electrical and Mechanical Services Department may later request the developer to provide appropriate documents, such as construction contract, order of works, certificate of completion, design drawings etc., to substantiate that the works of the outstanding building services installations are ordered or carried out by the developer and completed within 4 months (or the

³ For detailed information about "major revision", please refer to the Practice Note for Authorized Persons and Registered Structural Engineers (PNAP) no. APP-55 issued by the Buildings Department. Please also refer to the relevant FAQs for newly constructed buildings under the section of FAQ at the website of the BEEO.

extended period) after issuance of occupation approval.

14. For a case of some outstanding building services installations found belonging to the scope of major retrofitting works as per the aforesaid principles just on or shortly after the effective date of this Circular, if the developer concerned has difficulties to obtain a FOC within 2 months after completion of the relevant major retrofitting works as stipulated in section 17 of the BEEO, the developer may apply, with justification, to DEMS for extension to the aforesaid period of 2 months pursuant to section 17(4) of the BEEO. A standard application form for an extension (Form EE-ET) may be downloaded at the website of the BEEO.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Y. F. Cheung', written in a cursive style.

(Y. F. CHEUNG)

For Director of Electrical and Mechanical Services