

AAM Resolution

On Request For Comments On Draft Regulations
By Ministry Of National Planning & Infrastructure

29th January 2019

AAM/R/2019/01

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Introduction

Following on from the ‘Symposium on Regulations under the Construction Act’ hosted by the Ministry of National Planning & Infrastructure on 16th & 17th January 2019, AAM held working sessions amongst members to review the draft regulations under the Construction Act to provide our feedback on them.

AAM worked out a framework on the review process, a schedule to urgently review the drafts, and prioritized the drafts to be reviewed in order of urgency to address the current crisis related to health and safety on construction sites.

The document outlines the outcome of the review process culminating in this resolution, voted and approved by the membership in an AAM General Meeting held on 29th January 2019.

AAM Review Process

- 1 Understanding the legal framework regarding laws and regulations on construction
- 2 Reviewing the Construction Act
- 3 Prioritising list of draft regulations
- 4 Reviewing the draft regulations
- 5 Working out and finalize AAM's position and feedback through a working session
- 6 Working out AAM's short term and long-term position on how to engage and review regulations

AAM Review Schedule

<u>20 January 2019, Sunday</u>	Initial meeting with members to formulate a review structure
<u>21 January 2019, Monday</u>	Agreed on a framework to review and comment on the regulations proposed by the MNPI
<u>22 January 2019, Tuesday</u>	Reviewed the Construction Act and took AAM temporary positions and requested ministry for all draft regulations
<u>23 January 2019, Wednesday</u>	Reviewed Draft Administrative Regulation (Idhaaree Gawaidh)
<u>24 January 2019, Thursday</u>	Reviewed Draft Administrative Regulation (Idhaaree gawaidh)
<u>26 January 2019, Saturday:</u>	Reviewed Health and Safety Regulation
<u>27 January 2019, Sunday:</u>	Compiling outcome of working sessions
<u>28 January 2019, Monday:</u>	Compiling outcome of working sessions
<u>29 January 2019, Tuesday:</u>	Final comments and voting on AAM Resolution

Document Prioritisation

PRIORITY 1

Construction Act

"Imaariy Kurumuge Gaanoon"

01. Administrative Regulation

"Imaariy kurumaai behey idhaaree qavaidh"

05. Health & Safety Regulation

"Imaariy kurumuge amalee masakkaikurumugai gengulhenjehey salaamathy minganduthakuge qavaidh"

02. Building Code

13. Building Consent Authority Regulation

"Imaariy kurumuge hudha dhookuraa idhaaraathah registry kurumuge qavaidh test kurumuge qavaidh"

PRIORITY 2

03. Practitioner's Regulation

"Imaariy kurumuge dhaairaagai masakkaiykuraa fannuveringe qavaidh"

04. Contractor's Regulation

"Imaariy kurumuge amalee masakkaikuraa faraaiythakuge qavaidh"

06. Material Regulation

"Imaariy kurumuge masakathah beynunkuraa thakechaai thakethi test kuraa faraithakuge qavaidh"

10. Material Testing Regulation

"Imaariy kurumah beynunkuraa thakethi test kurumuge qavaidh"

11. Construction Material Import, Production controlling Regulation

"Imaariy kurumah beynunkuraa thakethi etherekurumaai ufedhun control kurumuge qavaidh"

12. Construction Regulation for Islands without Planning Regulation

"Planning qavaidh neiy rahrashaai falhufalhugai imaariy kuranveegothuge qavaidh"

PRIORITY 3

07. Academic Regulations

"Imaariykurumuge fannee adhi technical dhaairaathakuge ilmee program thakuge qavaidh"

08. Association Regulations

"Imaariy kuraa faraithah nisbaiyvaa jamaa'aiythakuge qavaidh"

09. Appeals Regulation

"Mi qaanoonaai miqaanoonuge dhashun ninmaa Kankan isthiunaafkurumuge qavaidh"

14. Other Construction Regulation

"Imaariykurumaa gulhey ehenihen qavaidhuthah"

Dates Documents were Received

While we understand that Ministry is in the drafting stages of some of the regulations, as part of our feedback we have highlighted the dates we received respective regulations in order to get a clearer idea of the time constraints we had to review the regulations.

	8-Jan-19	9-Jan-19	10-Jan-19	11-Jan-19	12-Jan-19	13-Jan-19	14-Jan-19	15-Jan-19	16-Jan-19	17-Jan-19	18-Jan-19	19-Jan-19	20-Jan-19	21-Jan-19	22-Jan-19	23-Jan-19	24-Jan-19	25-Jan-19	26-Jan-19	27-Jan-19	28-Jan-19	29-Jan-19	30-Jan-19	31-Jan-19
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General Comments

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Although within a limited timeframe to review the draft regulations Health and Safety was the first concern, nevertheless, we strongly felt the importance of a brief overview starting from the Constitution, related Acts, regulations and review of framework of the drafting and implementation process as a whole. However due to time constraints, AAM managed only a quick review of the Constitution, Construction Act, Health and Safety Regulation and Administrative Regulation. Review outcomes of the respective regulations are further detailed in this document.

2

We would like to highlight the high possibility of many negative consequences the Ministry and construction industry as a whole may have to face if the drafting and implementation process is not carried out within a structured framework in a holistic manner with an allocated team of specialist consultants. We realize the unrealistic timeframe and weaknesses and poor capacity to do such a work in the ministry as well as among the stakeholders. It is important to define the task and target objectives as well as a clear stakeholder engagement process at the beginning of the review process and ensure continuity.

3

During our sessions we have come to understand that Ministry may have room for appeal at Civil Court. Cause 95 of Construction Act states that administrative regulation be published one month from the date Construction Act is effective and the rest within six months. As Act supersedes all else Civil Court may not have room to declare a timeline that is in conflict. We advise the ministry to appeal to Civil Court to prioritize the few important regulations that are necessary to address the current crisis of safety during construction and work on a realistic timeframe.

Comments on Construction Act

A quick overview of the Construction Act alone identified many issues and it is recommended that the Construction Act is revised urgently for it to be effective. Amongst many issues, the following points need to be addressed during such a review.

- 1 Concerns were raised due to a lack of a contents sheet.
- 2 Name of the Construction Act and scope need to be reviewed.
- 3 Definitions and interpretations are currently placed at the end of the document and instead they should be at the beginning for clarity and better readability. In addition some definitions & interpretations are vague and/or missing.
- 4 Introduction and objectives are not clear and very broad.
- 5 Given the current situation where Health and Safety is the concern, we focused on clauses haa, on Health and Safety; raa, on improving construction standards and construction material standards and baa, on MBCB.
- 6 We feel MBCB should be an independent body with autonomy.
- 7 The composition and intent of MBCB should be reviewed; it should also include all stakeholders involved in the construction industry.
- 8 We recommend omitting clause 97 of the Construction Act which exempts construction in tourist resort from the act. Construction in tourist resorts could be declared special economic zones but they should comply with national health and safety standards and other construction related matters.
- 9 Financial amounts for penalties being mentioned in the Act is not practical as it limits room for amendments during currency value fluctuations and on a condition basis.
- 10 It is recommended that revision cycle of regulation to be made compulsory in the act.

Comments on Administrative Regulation

A quick overview of the Administrative regulation (Idhaaree gavaaidhu) identified many issues and it is recommended that it needs revision for it to be effective. Amongst many other revisions following are highlighted to be included.

- 1 To provide a list of contents to make the document more readable.
- 2 Definitions and interpretations are placed in the end of the documents and they should be at the beginning for clarity and better readability. Definition of 'idhaaree', roles and responsibilities are unclear.
- 3 More clarity is required in defining building types. Specifically 'Building Type 2'.
- 4 Points 'Shaviyani' and 'Noonu' of the objectives are repeated and can be combined.
- 5 This regulation needs to cover demolition and issues related to existing buildings.
- 6 Future building permits needs to be in 4 stages. There should be a planning permit, building design permit, construction permit and occupancy permits. 6. A clear framework for the process is required.
- 7 The regulation should attend to issues related to conflict of interests among members of regulatory body and practice.

Comments on Health & Safety Regulation

A quick overview of the Health and safety regulation identified many issues and it is recommended that it needs further revision for it to be effective. The question is, are the regulators identified and ready to implement the regulation? Do they have a framework to work on and the capacity? Are regulators identified? Amongst other revisions the following are highlighted to be included.

- 1 To provide a list of contents to make the document more readable.
- 2 Definitions and interpretations are placed in the end of the documents and they should be at the beginning for clarity and better readability. Definition of 'idhaaree', roles and responsibilities are unclear.
- 3 Existing regulation is not sufficient to cover the current issue of health and safety in construction site.
- 4 Is this a stand-alone regulation or would there be additional linked regulations?
- 5 Issues of smell, sound and work timings needs more attention.
- 6 Issue of MVR 1.5 million needs to be clarified and revised.
- 7 We feel that relevant technical specialists like electrical and other building services should be consulted and related regulations considered prior to finalizing this regulation



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