



Tree Work Practice in Hong Kong Regulations and Reality

樹藝工作 - 法理情

4th Seminar on The Best Practices for Urban Tree Management

John Ho 10 Dec 2011



Outline of this presentation

Laws and regulations relating to:

- Protection of trees
- Protection of the tree workers

Part 1: Relevant Ordinances for Protection of Trees on Government and Private Lands

Ordinances

There are at present relevant ordinances for protection of trees on Government and private lands, including but not limited to –

- > Forests and Countryside Ordinance (Cap. 96) 第96章林區及郊區條例
- > Country Parks Ordinance (Cap. 208) 第208章郊野公園條例
- > Public Health and Municipal Services Ordinance (Cap. 132)
第132章公眾衛生及市政條例
- > Crimes Ordinance (Cap. 200) 第200章刑事罪行條例
- > Theft Ordinance (Cap. 210) 第210章盜竊罪條例
- > Antiquities and Monuments Ordinance (Cap. 53)
第53章古物及古蹟條例
- > Summary Offences Ordinance (Cap. 228)
第228章簡易程序治罪條例

Source: <http://www.greening.gov.hk/tc/index.html>





Government Departments

Tree Maintenance

- At present, many departments are involved tree planting works.

Planting Works in Urban Areas

- Leisure and Cultural Services Department
- Home Affairs Department
- Housing Department
- Lands Department
- Highways Department
- Architectural Services Department
- Civil Engineering and Development Department
- Drainage Services Department
- Water Supplies Department.

Planting works in country parks

- Agriculture, Fisheries and Conservation Department

Source: <http://www.greening.gov.hk/tc/index.html>



Responsibilities

Location of Trees	Responsible Departments
Parks and open spaces in urban areas	Leisure and Cultural Services Department
Man-made slopes	By the department responsible for the maintenance of the slopes
Alongside the Expressways	Highways Department
Roadside trees within the areas of country parks	Agriculture, Fisheries and Conservation Department
Roadside planting in urban areas	Leisure and Cultural Services Department

Source: <http://www.greening.gov.hk/tc/index.html>



Stakeholders

- Property management offices
- Land owners / tree owners
- Government departments
- Landscape consultants and contractors
- NGOs, utilities, public
- ...

Purposes & Penalties

Cap. 96 Section 21

- Protect trees, shrubs, and other plants from destruction, injury or removal;
- The following acts were prohibited in forest:
 - (a) cuts grass, removes turf or earth, rakes pine needles;
 - (b) plucks or damages any bud, blossom or leaf of any tree, shrub or plant;
 - (c) trespasses or pastures cattle or goats or permits cattle or goats to trespass;
 - (d) fells, cuts, burns or otherwise destroys any trees or growing plants

Cap. 208A Regulation 8

- No person shall within a country park or special area, except in accordance with a permit in writing granted by the Authority-
 - (a) cut, pick or uproot any plant or part of a plant, whether living or dead;
 - (b) dig, cultivate or disturb the soil; or
 - (c) sow or plant any seeds or plants, whether as a crop or not.

Cap. 53 Section 6

- no person shall-
 - (a) excavate, carry on building or other works, plant or fell trees or deposit earth or refuse on or in a proposed monument or monument; or

Offences and Penalties:

- Fine of \$25000 and to imprisonment for 1 year (Cap. 96)
- Fine of \$2000 and to imprisonment for 3 months and, where the offence is a continuing offence to an additional fine of \$100 for each day during which the offence has continued. (Cap. 208A)
- Fine of \$100000 and imprisonment for 1 year (Cap. 53)

Cases

荃灣汀九新盤 一號九龍山頂砍樹賠1500萬

因砍樹問題而遲遲未獲政府批出預售樓花同意書

剛與政府達成協議，以每棵樹20萬元的代價、額外支付約1500萬元

高鐵涉斬樹 港鐵遭票控

高鐵工程的建造承辦商，在元朗八鄉一項山坡鞏固工程中，涉嫌斬去鄰近大片保育區內的半百棵樹，港鐵及涉事建造承辦商分別遭環保署票控。

因此被罰款1.5萬港元。

兩姊妹劈六樹同監兩月

中年姊妹在葵涌安蔭邨對開山坡上，用鐮刀等利器任意砍伐幼樹，被人發現報警拘捕。

她們承認分別於三月十二日及四月二日，在上述山邊，摧毀共六棵樹木，違反《林區及郊區條例》。在兩次事件中，兩名被告共砍去山坡上共六棵樹。



Observations

- There are ordinances to protect trees. Review and revision is recommended for alignment.
- Lands Department acts as a central coordinator. The processing time of the tree work permit may be longer. Process review is recommended.
- Many situations and many government departments are involved.
- Lack of emergency permit system.

Tree management on unmanned sites

Safety hazards:

- Hill fire
- Electrocution
- Power interruption, etc.



Emergency situation

- Emergency can cause immediate danger
- Consequence may be severe

<http://pogpog.com/v/tree-branch-falls-on-a-power-line/>



Part 2: Tree Workers Safety - Working at height



Is tree climbing an approved tree work practice in Hong Kong?

Yes or No

Safety concern

節錄東方日報
2011-09-05

勞處責康文署漠視人命

政府管理樹木不善一直被人詬病，有工會踢爆康樂及文化事務署未有提供鋸樹手套給員工，而遭勞工處警告。工會又質疑，署方不應叫員工用繩索爬樹，勞工處也說，檢查樹木應用合適的工作台或梯，要求康文署加強安全管理。

工會透露，勞工處職業安全主任去年八月巡視完鯉魚門公園及度假村後向康文署發出警告信：「根據職業安全及健康條例第五。九章第六條，僱主均須在合理切實可行範圍內，確保工作中的僱員安全及健康，例如提供安全鋸樹手套及確保員工在工作中佩戴適當個人用具。」

該用工作台 屢反映無理會

勞工處去年十二月再去信康文署，指巡視過鯉魚門公園及度假村、清水灣第二灣泳灘、摩理臣山游泳池、大埔運動場、九龍城體育館後，提醒康文署加強安全管理，特別是提供適當個人保護裝備，而在外判修剪樹木工作時，康文署亦要建立有效監察制度，確保外判商保障工人安全。

工會質疑署方不應叫員工用繩索爬樹，而應用工作台，工會多次向署方反映，但是，署方並無理會。

康文署回應說，樹藝工作人員會視乎實際環境，採用適當的方法和設備護理樹木，如有需要會使用工作台進行高空工作，該署亦有提供專用手套供員工鋸樹時用。



過去曾有康文署員工用繩索爬樹，工會關注有關安全情況。（資料圖片）



Why do tree workers climb and prune trees at height?

- Ensure public safety
- Maintain the tree health
- Protect government and private properties
- Ensure traffic safety
- Protect public services such as electricity, communication and railway

A Bauhinia variegata in typhoon Nesat (2011)



Typical example of working at height

Were they working safely? The worker wearing white T-shirt was drilling holes at that time.

Did they

- Fence off the site, display notice properly?
- Work at a location higher than 2m?
- Wear safety helmet?
- Wear safety belt and fix to an anchor?
- Appoint a watchman or an observer?
- Conduct pre-work risk assessment?
- Develop a work plan?



Ordinances - Working at height













- No specific ordinances / guidelines related to tree work at height
- How about other ordinances that related to work at height?

Occupational Safety and Health Ordinance (Cap. 509) 第509章職業安全及健康條例

Factories and Industrial Undertakings Ordinance (Cap. 59) 第59章工廠及工業經營條例




Factories and Industrial Undertakings Ordinance (Cap. 59)

<u>Chapter 59 FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE</u>	Version Date
<u>CAP 59I CONSTRUCTION SITES (SAFETY) REGULATIONS</u>	
 <u>Cap 59I Part VA SCAFFOLDS, WORKING PLATFORMS AND LADDERS, ETC.</u>	28/11/2003
 <u>Cap 59I reg 38A Duty of contractor responsible for construction site to ensure safety of places of work</u>	28/11/2003
 <u>Cap 59I reg 38AA Duty of other contractors to ensure safety of places of work</u>	28/11/2003
 <u>Cap 59I reg 38B Prevention of falls</u>	28/11/2003
 <u>Cap 59I reg 38C Safe means of support</u>	28/11/2003
 <u>Cap 59I reg 38D Construction and maintenance of scaffolds, etc.</u>	28/11/2003
 <u>Cap 59I reg 38E Trained workmen to erect scaffold under supervision</u>	28/11/2003
 <u>Cap 59I reg 38F Inspection of scaffolds</u>	28/11/2003
 <u>Cap 59I reg 38G Boatswain's chairs (not power operated)</u>	28/11/2003
 <u>Cap 59I reg 38H Defences to regulations 38B(1) and (1A) and 38C</u>	28/11/2003
 <u>Cap 59I reg 38I Duty to wear safety belt</u>	01/10/1999
 <u>Cap 59I reg 38J (Repealed L.N. 76 of 1999)</u>	01/10/1999

Cap. 59I Regulation 38C



Contents of Section

Chapter:	59I 	Title:	CONSTRUCTION SITES (SAFETY) Regulations	Gazette Number:
Regulation:	38C	Heading:	Safe means of support	Version Date:

Where work cannot be safely done on or from the ground or from part of a permanent structure, the contractor responsible for the construction site concerned and any contractor who has direct control over the work shall provide, and ensure the use of, a scaffold, ladder or other means of support, all of which shall be safe for the purpose, having regard to the work to be done.

(L.N. 258 of 2003)

Previous Provision

Next Provision

中文


Past Versions


Back to List of Enactments

How do you interpret the term “or other means of support” ?

Occupational Safety and Health Ordinance Regulation (Cap. 509A)

Contents of Section

Add to Printing List 

Chapter:	509A 	Title:	OCCUPATIONAL SAFETY AND HEALTH REGULATION	Gazette Number:	L.N. 246 of 1998
Section:	31	Heading:	Employer to provide adequate training to employees	Version Date:	01/07/1998

(1) An employer must provide his employees with such training as will be necessary for avoiding or minimizing the risks to the safety and health of those employees when they are undertaking manual handling operations which may create safety and health risks.

(2) Without limiting the effect of subsection (1), an employer who employs employees to undertake manual handling operations which may create safety and health risks must provide safety and health training to those employees-

- (a) when those employees are first employed by the employer; or
- (b) when those employees are exposed to new or changed risks to their safety and health as a result of-
 - (i) their being allocated new work tasks relating to manual handling operations which may create safety and health risks to perform; or
 - (ii) the use of a new kind of plant which has not been introduced into the employees' workplace before, or the replacement of existing plant installed or kept in the employees' workplace by a new type of plant which has not been introduced into the workplace before; or
 - (iii) the introduction of new technology, a new system of work or new work practices at the employees' workplace; or
 - (iv) a change in existing technology, the existing system of work or existing work practices at the employees' workplace.

(3) An employer must ensure that the training which he is required to provide under subsection (1)-

- (a) is repeated whenever necessary having regard to the purposes of the Ordinance; and
- (b) is modified to take into account new or changed risks to the safety and health of his employees; and
- (c) is provided during the employees' ordinary working hours.

(4) An employer who fails to comply with subsection (1), (2) or (3) commits an offence and is liable on conviction to a fine of \$200000.

Safe Tree Work at Height

Safe System of Work

Understand the Work

Pre-work assessment

Identify the risks

Develop method statement

Follow the control hierarchy

- > Work on or from ground wherever possible
- > Use elevating platform or scaffolding
- > Use of rope access or other work positioning method





現代企業要講法理情

法律第一

理性第二

人情第三

Discussions

- Human life vs Tree health

Which is more important?

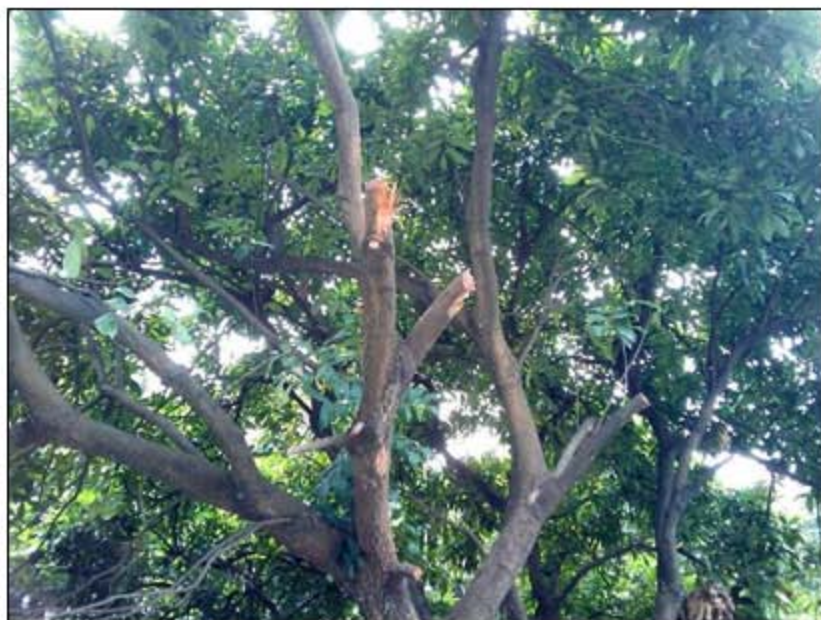
- Can tree work be done from ground level?

Yes or No



Tree Work from Ground

- Work from ground level is always possible ! But...
- It may cause quality issue
- Poor quality pruning will create hazards - will hurt people in future!



Source: Headline Daily 2009-06-10

Result of Poor Tree Management



Aleurites moluccana, naturally grows in countryside



Aleurites moluccana, after improper tree pruning



How do we move forward?

- A client wants to acquire professional tree work service at a reasonable price.
- A contractor wants to hire competent and qualified arborists / tree workers at market price.
- An employee wants to find a job with reasonable salary and being respected.
- The public wants to see good tree work practice in Hong Kong.

The future is in your hand!

Thank You.