

Supplementary Provisions of Administration of Foreign-invested Construction Enterprises Provisions

Promulgated by the Ministry of Construction and the Ministry of Commerce on 19 December 2003 and effective as of 1 January 2004

The following supplementary provisions for the Administration of Foreign-invested Construction Enterprises Provisions (Ministry of Construction and Ministry of Foreign Trade and Economic Cooperation Order No. 113) are hereby formulated in accordance with the Mainland/Hong Kong Closer Economic Partnership Arrangement and the Mainland/Macao Closer Economic Partnership Arrangement approved by the State Council, in order to promote the development of economic and trade relationship between the mainland and Hong Kong and Macao and to encourage Hong Kong service providers and Macao service providers to establish construction enterprises in the mainland:

1. When Hong Kong service providers and Macao service providers apply to establish a construction enterprise, their business performance in Hong Kong, Macao and the mainland may altogether be the basis for assessing their qualifications for the construction enterprise established in the mainland. In regard to the number of administrative and technical personnel, the basis for qualification assessment shall be the actual number of personnel in the construction enterprise established in the mainland.
2. Hong Kong service providers and Macao service providers are permitted to wholly acquire construction enterprises in the mainland.
3. When contracting for Sino-foreign cooperative construction projects, construction enterprises invested in and established by Hong Kong service providers and Macao service providers shall not be restricted by the Sino-foreign investment ratio for the construction project.
4. Applications for qualification certificates of construction enterprises invested in by Hong Kong service providers and Macao service providers in the mainland shall be handled in accordance with the relevant regulations of the mainland. Those that have obtained construction enterprise qualifications may participate in the submission of bids for projects throughout the country in accordance with the law.
5. Investment in and establishment of construction enterprises in the mainland by, and applications for qualifications of, Hong Kong service providers and Macao service providers shall be handled in accordance with the Administration of Foreign-invested Construction Enterprises Provisions and the relevant provisions regarding the administration of construction enterprise qualifications.
6. “Hong Kong service providers” and “Macao service providers” specified in these Provisions shall satisfy the definition of “service provider” and the requirements of the relevant provisions in the Mainland/Hong Kong Closer Economic Partnership Arrangement and the Mainland/Macao Closer Economic Partnership Arrangement respectively.
7. The Ministry of Construction and the Ministry of Commerce are responsible for interpreting these Supplementary Provisions ex officio.
8. These Supplementary Provisions shall be implemented as of 1 January 2004.

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