

立法會
Legislative Council

LC Paper No. LS81/06-07

**Paper for the House Committee Meeting
on 1 June 2007**

**Further Report by Legal Service Division on
Building Management (Amendment) Ordinance 2007
(Commencement) Notice 2007 (L.N. 92) gazetted on 18 May 2007**

The Building Management (Amendment) Ordinance 2007 (Commencement) Notice 2007 (L.N. 92) was considered by the House Committee at its meeting on 25 May 2007. At the meeting, a Member asked for further information on the commencement of the provisions of the Building Management (Amendment) Ordinance 2007 (5 of 2007) and the Administration's plan for those provisions yet to be commenced. The Administration's response dated 28 May 2007 with the information requested is attached.

Encl

Prepared by

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29 May 2007

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28 May 2007

Miss Monna Lai
Assistant Legal Adviser
House Committee
Legislative Council
Legislative Council Building
Jackson Road
Central
Hong Kong

Dear Monna,

**Building Management (Amendment) Ordinance 2007
(Commencement) Notice 2007**

Thank for your letter of 25 May 2007. I append below information requested by Members of the House Committee on the above Commencement Notice, in particular the reasons for the commencement of provisions on the two commencement dates (i.e. 25 May 2007 and 1 August 2007) and for those provisions yet to be commenced.

Building Management (Amendment) Ordinance 2007

The Building Management (Amendment) Bill 2005 was introduced into the Legislative Council on 27 April 2005. After detailed scrutiny by the Bills Committee on the Building Management

(Amendment) Bill 2005, the Bill was passed by the Legislative Council on 25 April 2007 and became the Building Management (Amendment) Ordinance 2007 (Amendment Ordinance). Section 2 of the Amendment Ordinance provides that the Amendment Ordinance shall come into operation on a day to be appointed by the Secretary for Home Affairs (SHA) by notice published in the Gazette.

Commencement Date for Majority of the Provisions in the Amendment Ordinance

As agreed with the Bills Committee, all the provisions of the Amendment Ordinance (except those relating to the third party risks insurance for owners' corporations (OCs)) should commence around three months following the passage of the Bill so as to allow sufficient time for the public to understand the new provisions. Counting from the day of the passage of the Bill on 25 April 2007, it would mean the Amendment Ordinance should commence on 1 August 2007. Members of the Bills Committee raised no objection to our commencement plan. This was reported to the House Committee at its meeting on 13 April 2007¹. The Secretary for Home Affairs has also mentioned the proposed commencement date of 1 August 2007 in his resumption speech for the Bill.

Since passage of the Amendment Ordinance by the Legislative Council on 25 April 2007, we have actively prepared publicity arrangements for the commencement of the Amendment Ordinance. We have, in April and May 2007, conducted intensive training for all the Liaison Officers of Home Affairs Department on the Amendment Ordinance. We have already scheduled briefings for the various professional organizations (e.g. the Law Society of Hong Kong, the Hong Kong Institute of Surveyors, the Hong Kong Association of Property Management Companies Limited, the Hong Kong Institute of Housing, the Hong Kong Institute of Real Estate Administration and the Chartered Institute of Housing, the Hong Kong Housing Society, etc) in May and June 2007. We will brief the 18 District Councils and/or their committees on housing and building management matters starting mid-June 2007 and we have also lined up some 30 district briefings for

¹ See paragraphs 235 – 236 of LC Paper No. CB(2)1535/06-07

the owners' corporations and owners' associations of the 18 districts in July and August 2007. As agreed with the Bills Committee, we are also in the process of printing the various new guidebooks on the Amendment Ordinance to assist the public to understand the new provisions under the Amendment Ordinance. These include, amongst others, a Layman's Guide on the Building Management Ordinance (BMO), Frequently Asked Questions and Answers, Guidebook on How to Form an OC, Guidebook on Financial Management, Codes of Practices, etc. These guidebooks, which will be ready in June 2007, will be sent to Members of the Panel of Home Affairs. To raise the awareness of members of the public on the Amendment Ordinance, we will launch radio announcement on the commencement of the Amendment Ordinance starting July 2007 and revamp our website on building management.

Given that the 1 August 2007 commencement date has been agreed with the Bills Committee, we have already informed the public about the commencement date. We have also included in all our publications (some of which are being printed) that the Amendment Ordinance will commence on 1 August 2007.

Commencement Date for Provisions Relating to the Compulsory Insurance Requirement in the Amendment Ordinance

Section 12(b)(ii) and Part 3 of the Amendment Ordinance are related to the compulsory procurement of third party risks insurance by OCs. The detailed requirements for OCs to procure third party risks insurance are set out in the Building Management (Third Party Risks Insurance) Regulation, which the Administration has planned to submit to the Legislative Council for negative vetting within this legislative session.

As explained in the Brief for the Legislative Council on the Building Management (Amendment) Bill 2005², after the Building Management (Amendment) Bill 2005 is enacted, we will refer the Building Management (Third Party Risks Insurance) Regulation 2005 back to the Chief Executive in Council for approval of its enactment. Subject to the approval by the Chief Executive in Council, the Regulation will be tabled in the Legislative Council for negative vetting. To enable the OCs and the property management companies to acquaint themselves

² Paragraphs 31 – 33.

with the new requirements and to arrange for procurement of the insurance policy, we intend that the new requirement on compulsory third party risks insurance shall take effect about 12 months after the Regulation is made.

It follows that section 12(b)(ii) and Part 3 of the Amendment Ordinance, which are related to the compulsory procurement of third party risks insurance by OCs, have to commence on a future day to be appointed by SHA upon the enactment of the Regulation.

Commencement Notice

That brings me back to the Commencement Notice for the Amendment Ordinance. Part 1 of the Amendment Ordinance contains the commencement provision and section 24 of the Amendment Ordinance amends section 41 of the existing BMO (which empowers the Chief Executive in Council to make regulations, including the effecting of policies of insurance in respect of third party risks by OCs with insurance companies and the conditions and requirements which are to apply in respect of those policies). As we plan to table the Building Management (Third Party Risks Insurance) Regulation at the Legislative Council for negative vetting within this legislative session, Part 1 and section 24 of the Amendment Ordinance must come into operation on an earlier day (and we propose it to be 25 May 2007), so that the Chief Executive in Council may exercise his power under the amended section 41 of the BMO to enact the Building Management (Third Party Risks Insurance) Regulation for tabling at the Legislative Council.

The Commencement Notice therefore provides that –

- (a) Part 1 and section 24 of the Amendment Ordinance shall come into operation on 25 May 2007;
- (b) Section 12(b)(ii) and Part 3 of the Amendment Ordinance shall come into operation on a future day to be appointed by SHA;
- (c) All other sections of the Amendment Ordinance (except the above mentioned ones) shall come into operation on 1 August 2007.

If you need further information, please feel free to let me know.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a smaller 'eung'.

(Mrs Angelina Cheung)
for Director of Home Affairs