

Bills Committee on Buildings (Amendment) Bill 2007

Issues requiring follow-up action/consideration by the Administration
(position as at 17 June 2008)

Date of meeting	Issues	Outcome
21 December 2007	<p>The Administration was requested to provide in writing:</p> <ul style="list-style-type: none"> (a) the mechanism to deal with ad-hoc situations arising during the course of works implementation, for example, when additional minor works belonging to Classes I or II categories were deemed necessary after commencement of Class III minor works and under such circumstances, the obligations and responsibilities of building owners and Registered Minor Works Contractors (RMWCs); (b) details of the Administration's efforts to consult the self-employed workers or sole proprietors to raise their awareness of the proposed minor works control system before passage of the Bill; (c) details of fees to be charged for minor works practitioners to attend the top-up courses and registration fees to be imposed on RMWC applicants; (d) whether self-employed workers would be required to apply for business registration before their registration as RMWCs; and (e) the respective regulatory mechanisms applicable to workers, such as the minor works control system and the construction workers registration system, for 	<p>The Administration's response has been issued on 18 January 2008 (LC Paper No. CB(1)609/07-08(01)).</p>

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	undertaking various buildings-related job assignments and the feasibility of streamlining these mechanisms to ease compliance by workers.	
22 January 2008	The Administration was requested to provide an information paper setting out on the interface between the proposed minor works control system and the Construction Sites (Safety) Regulations of the Factories and Industrial Undertakings Ordinance (Cap. 59, Sub. Leg. I) with particular reference to the latter's requirement for contractors to ensure the safety performance on the construction site.	The Administration's response has been issued on 13 February 2008 (LC Paper No. CB(1)785/07-08(01)).
26 January 2008	<p>The Administration was requested to follow up on the following matters:</p> <p>(a) clarification on the registration requirements under the minor works control system relating to licensed plumbers; and</p> <p>(b) the legislative intent of the proposed regulations on minor works, relating to the registration requirements, operation procedures and designation of minor works items etc, as far as possible, to address concerns relating to the implementation details of the control system.</p>	<p>The Administration's response has been issued on 14 February 2008 (LC Paper No. CB(1)785/07-08(02)).</p> <p>The Administration's response has been tabled at the meeting on 26 February 2008 and subsequently issued on 28 February 2008 (LC Paper No. CB(1)927/07-08(02)).</p>

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	The Administration was requested to provide a detailed written response to the views made by the deputations on the Bill.	The Administration's response has been issued on 14 February 2008 (LC Paper No. CB(1)785/07-08(02)).
15 February 2008	<p>The Administration was requested to follow up on the following matters:</p> <p>(a) whether and how RMWCs, in particular the self-employed workers who would be allowed to register as Class III RMWCs, would be required to comply with the provisions of the Construction Sites (Safety) Regulations (Cap. 59, Sub. Leg. I) and Factories and Industrial Undertakings Ordinance (Cap. 59), and if yes, measures to help them to comply with the law;</p> <p>(b) response to the view expressed by the Hong Kong Institute of Surveyors (HKIS) on the appointment of registered geotechnical engineers for some Class I minor works (LC Paper No. CB(1)785/07-08(02) Part A(II) 2.5(a)) after consulting the Hong Kong Institute of Architects, the Hong Kong Institute of Structural Engineers and HKIS;</p> <p>(c) response to members' view that works which required the issuance of occupation permits should not be classified as minor works (LC Paper No. CB(1)785/07-08(02) Part A(II) 2.5(b)); and</p>	The Administration's responses have been issued on 5 and 26 March 2008 respectively (LC Paper Nos. CB(1)982/07-08(01) and CB(1)1114/07-08(01)).

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	(d) whether the drafting of the proposed section 41(3)(b) of the Bill should be improved to more clearly reflect the policy intent of the Administration (LC Paper No. CB(1)785/07-08(02) Part A(II) 2.5(d)).	
26 February 2008	<p>The Administration was requested to provide in writing:</p> <p>(a) response to the views expressed by Friends of the Earth (LC Paper No. CB(1)878/07-08(01)) on light nuisance including measures which might be taken to help contain the problem of noise nuisance under the minor works control system;</p> <p>(b) the mechanism for RMWCs to notify the Building Authority (BA) and the BA to confirm acceptance of the completed minor works as well as the instrument/channel to be used to promulgate the mechanism;</p> <p>(c) response to members' concern about the legal implications of implementing the Validation Scheme on possible title and conveyancing problems (LC Paper No. CB(1)785/07-08(02) Part A(VI) 6.3(a)); and</p> <p>(d) response to the query on the Administration's proposal to adopt different registration arrangements for partnerships and sole proprietorships operating as "firms" from that for "individual workers" and measures to help practitioners who were eligible for applying for registration as RMWCs either as firm-based or individual-based contractors to make informed decision on their preferred stream.</p>	The Administration's responses have been issued on 10 and 26 March 2008 respectively (LC Paper Nos. CB(1)982/07-08(03) and CB(1)1114/07-08(01)).

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11 March 2008	<p>The Administration was requested to provide the guidelines on the erection and maintenance of signboards in respect of material and structural safety, etc., as well as measures to combat unauthorized signboards.</p> <p>The Administration undertook to:</p> <p>(a) consider moving a Committee Stage amendment (CSA) to amend clause 3(1)(c) (definition of "minor works") for the designation of minor works through gazettal/the issue of practice note instead of in the regulations; consequential amendments would be made to various proposed sections of the Bill;</p>	<p>The Administration's response has been issued on 25 March 2008 (LC Paper No. CB(1)1114/07-08(02)).</p> <p>At the Bills Committee meeting on 27 May 2008, the Administration advised that having consulted the Department of Justice and in view of the legal content of the minor works classification, the schedule of minor works would be promulgated as part of the Building (Minor Works and Related Matters) Regulation.</p>

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	<p>(b) move CSAs to amend clause 3(1)(c) (definitions of "prescribed requirements" and "prescribed requirement minor works") for the replacement of the term "prescribed requirements" by "simplified requirements", deletion of the term "prescribed requirement minor works" and its definition; and addition of new section 2(1B) to provide for the meaning of minor works commenced under the simplified requirements (LC Paper No. CB(1)1043/07-08(01)); consequential amendments would be made to various proposed sections of the Bill;</p> <p>(c) consider specifying in the Building (Minor Works and Related Matters) Regulation the appointment of RMWCs for carrying out classes II and III minor works; and</p> <p>(d) consider improving the drafting of the new sections 4A(1) and 9AA(1) in respect of the appointment of qualified persons to carry out minor works and section 40(1AA) in relation to an offence for any person knowingly contravening section 14(1) on approval and consent required for commencement of building works (including minor works) so as to facilitate comprehension of the general public.</p>	<p>The draft CSA proposed by the Administration has been issued on 21 May 2008 (LC Paper No. CB(1)1600/07-08(03)).</p> <p>Noted by the Administration for consideration.</p> <p>The draft CSA proposed by the Administration has been issued on 21 May 2008 (LC Paper No. CB(1)1600/07-08(03)).</p>
27 March 2008	<p>The Administration was requested to provide in writing:</p> <p>(a) existing legislative framework and policy on the regulation of light trespass and enhancement of energy efficiency (whether the latter would cover the regulation of light trespass);</p>	<p>The Administration's response has been issued on 21 May 2008 (LC Paper No. CB(1)1600/07-08(01)).</p>

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	<p>(b) legal responsibilities of various parties which might be involved in the carrying out of minor works, namely the person intended to carry out minor works (e.g. building owner/person on behalf of the building owner); the agent, if any, who assisted the above-mentioned person in engaging the registered professional/contractor to carry out the minor works; the registered professional/contractor; and the workers employed by contractors; with the provisions of the Bill and/or Regulation which stipulated therein;</p> <p>(c) measures to regulate neon signs, with particular reference to the toxic gas contained therein; and</p> <p>(d) response to members' concern about the unnecessary burden to be imposed on building owners for compliance with the proposed minor works system, i.e. the appointment of eligible persons to carry out the minor works as prescribed under new sections 4A and 9AA of the Bill.</p>	<p>The Administration's response has been issued on 3 April 2008 (LC Paper No. CB(1)1179/07-08(01)).</p> <p>The Administration's response has been issued on 21 May 2008 (LC Paper No. CB(1)1600/07-08(01)).</p> <p>The Administration's response has been issued on 3 April 2008 (LC Paper No. CB(1)1179/07-08(01)).</p>
7 April 2008	<p>The Administration was requested to provide in writing:</p> <p>(a) possible ways in respect of the legal framework and procedural arrangements to spell out clearly the legislative intent and identify the legal responsibilities of various parties that might be involved in the carrying out of minor works under</p>	<p>The Administration's response has been issued on 21 April 2008 (LC Paper No. CB(1)1295/07-08(01)).</p>

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	<p>various possible scenarios;</p> <p>(b) scenarios under which a building owner would discharge his duties stipulated in new sections 4A and 9AA for the appointment of qualified persons to commence or carry out minor works and hence would not be deemed as knowingly contravening the BO, with reference to similar provisions in other legislation and case law; and</p> <p>(c) response to members' view that the Administration should delete the proposed term of imprisonment imposed on the person for whom minor works were to be carried out, in particular building owners, for non-compliance of the proposed minor works control system under Class III, taking into account the nature and gravity of the offence.</p> <p>The Administration undertook to :</p> <p>(a) consider adding "但" before "第 4A(1)及 9AA(1)條已獲符合" in the Chinese version of the new section 14AA; and</p>	<p>(a) The Administration's response has been issued on 21 May 2008 (LC Paper No. CB(1)1600/07-08(02)); and</p>

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	(b) consider simplifying the drafting of the new section 24AA relating to the specification of persons to whom orders for demolition, removal, or alteration of minor works commenced under the simplified requirements would be served.	(b) At the Bills Committee meeting on 22 April 2008, the Administration advised that the current drafting of the new section 24AA could not be simplified.
22 April 2008	<p>The Administration was requested to provide written information on whether the time when the appointment of registered professionals/registered minor works contractors (RMWCs) was made or the minor works actually commenced should be regarded as the material time in proving that "a person for whom minor works are carried out" had knowingly contravened the proposed section 40(1AB).</p> <p>The Administration undertook to:</p> <p>(a) consider spelling out more clearly in the Bill the legislative intent that when an agent, on behalf of a building owner/tenant, directly appointed registered professionals and/or RMWCs to undertake a minor works project, the agent would be regarded as "the person for whom minor works are to be carried out" as stated in proposed sections 4A and 9AA;</p> <p>(b) further consider how the criminal liabilities against non-compliance with the</p>	<p>The Administration's response has been issued on 21 May 2008 (LC Paper No. CB(1)1600/07-08(02)).</p> <p>The Administration's response has been issued on 21 May 2008 (LC Paper No. CB(1)1600/07-08(02)).</p>

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	<p>proposed minor works control regime by building professionals, contractors and building owners/tenants should be defined; and</p> <p>(c) move a CSA to amend the Chinese version of new section 14AA in clause 16 as "如小型工程在沒有根據第 14(1)條獲建築事務監督批准及同意下展開或進行, 而第 4A(1)及 9AA(1)條已就該工程而獲符合, 則第 14(1)條並不就該工程而適用。".</p>	
29 April 2008	<p>The Administration was requested to provide a summary table of the provisions of the Buildings (Amendment) Bill 2007, stipulating offences applicable to building owners/tenants under the legislative framework of the proposed minor works control system and administrative measures imposing or lifting liabilities of building owners/tenants.</p> <p>The Administration undertook to:</p> <p>(a) move a CSA to empower the Building Authority (BA) to make available building plans in an electronic form via the Internet for public inspection;</p> <p>(b) consider amending new sections 4A and 9AA (appointment of registered professionals/RMWCs) to spell out more clearly under what circumstances a person would be regarded as "the person for whom minor works are to be carried out"; and</p>	<p>The Administration's response has been issued on 21 May 2008 (LC Paper No. CB(1)1600/07-08(02)).</p> <p>The draft CSA proposed by the Administration has been issued on 21 May 2008 (LC Paper No. CB(1)1600/07-08(03)).</p>

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	(c) consider if amendments should be made to proposed sections 40(2AC)(b) and 40(2B)(d) in the light of members' concern about formation works, piling works, excavation works or foundation works which were not supposed to be classified as minor works as stated in the provisions.	
22 May 2008	The Administration was requested to re-consider the revised drafting of new sections 4A and 9AA (appointment of registered professionals/ RMWCs) taking into account members' views that while further safeguards should be provided for building owners concerning the criminal liabilities against non-compliance with the proposed minor works control regime, the liabilities of building professionals and contractors under the proposed regime should not be relaxed. Consideration should also be given to retain "the person for whom minor works are to be carried out" as proposed in the previous drafting. Where appropriate, alternative formulations to amend the drafting of new sections 4A and 9AA should be provided for members' consideration.	The Administration's response has been issued on 27 May 2008 (LC Paper No. CB(1)1684/07-08(01)).